

AMENDED IN SENATE AUGUST 12, 1998

AMENDED IN ASSEMBLY JULY 2, 1998

AMENDED IN ASSEMBLY APRIL 27, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2809

**Introduced by Committee on Revenue and Taxation (Knox
(Chair), Alquist, Aroner, Cedillo, Machado, Miller, Ortiz,
Takasugi, and Wright)**

March 24, 1998

An act to amend Sections 17053.34, 17053.46, 17053.47, 17053.74, 17276, 17276.1, 17276.2, 23622.7, 23622.8, 23634, 23646, 24416, 24416.1, and 24416.2 of, and to add Sections 17276.4, 17276.5, 17276.6, 24416.4, 24416.5, and 24416.6 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2809, as amended, Committee on Revenue and Taxation. Economic development areas: net operating losses.

The Personal Income Tax Law and the Bank and Corporation Tax Law allow a taxpayer to claim certain tax incentives for activities conducted in different types of economic development areas that include, among others, an enterprise zone, a Local Area Military Base Recovery Area (LAMBRA), a targeted tax rate area, or a Manufacturing Enhancement Area (MEA), including a credit in an amount

equal to the specified percentage of wages paid by the taxpayer during the taxable or income year to a qualified employee employed in the applicable zone or area.

This bill would, for purposes of this credit as applied to these economic development areas, clarify the application of credit percentage and credit recapture provisions with respect to a seasonal employee, as defined.

The Personal Income Tax Law and the Bank and Corporation Tax Law allow a taxpayer to claim certain tax incentives for activities conducted in an enterprise zone, the Los Angeles Revitalization Zone (LARZ), a Local Agency Military Base Recovery Area (LAMBRA), or a targeted tax area (TTA), including a deduction for net operating losses.

This bill would specify that this deduction, as allowed with respect to activities conducted by a taxpayer in the LARZ, shall cease to be operative on December 1, 1998, rather than January 1, 1998. This bill would also make technical, nonsubstantive changes by recasting existing net operating loss deduction provisions with respect to activities that are conducted by a taxpayer in an enterprise zone, a LAMBRA, or a targeted tax area.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would make legislative findings and declarations as to the statewide public purpose that is served by its provisions.

This bill would take effect immediately as a tax levy, but would specify the retroactive application of certain of its provisions.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17053.34 of the Revenue and
- 2 Taxation Code is amended to read:
- 3 17053.34. (a) For each taxable year beginning on or
- 4 after January 1, 1998, there shall be allowed a credit

1 against the “net tax” (as defined in Section 17039) to a
2 qualified taxpayer who employs a qualified employee in
3 a targeted tax area during the taxable year. The credit
4 shall be equal to the sum of each of the following:

5 (1) Fifty percent of qualified wages in the first year of
6 employment.

7 (2) Forty percent of qualified wages in the second year
8 of employment.

9 (3) Thirty percent of qualified wages in the third year
10 of employment.

11 (4) Twenty percent of qualified wages in the fourth
12 year of employment.

13 (5) Ten percent of qualified wages in the fifth year of
14 employment.

15 (b) For purposes of this section:

16 (1) “Qualified wages” means:

17 (A) That portion of wages paid or incurred by the
18 qualified taxpayer during the taxable year to qualified
19 employees that does not exceed 150 percent of the
20 minimum wage.

21 (B) Wages received during the 60-month period
22 beginning with the first day the employee commences
23 employment with the qualified taxpayer. Reemployment
24 in connection with any increase, including a regularly
25 occurring seasonal increase, in the trade or business
26 operations of the qualified taxpayer does not constitute
27 commencement of employment for purposes of this
28 section.

29 (C) Qualified wages do not include any wages paid or
30 incurred by the qualified taxpayer on or after the
31 targeted tax area expiration date. However, wages paid
32 or incurred with respect to qualified employees who are
33 employed by the qualified taxpayer within the targeted
34 tax area within the 60-month period prior to the targeted
35 tax area expiration date shall continue to qualify for the
36 credit under this section after the targeted tax area
37 expiration date, in accordance with all provisions of this
38 section applied as if the targeted tax area designation
39 were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Targeted tax area expiration date” means the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(4) (A) “Qualified employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of his or her services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer’s trade or business located in a targeted tax area.

(ii) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a targeted tax area.

(iii) Is hired by the qualified taxpayer after the date of original designation of the area in which services were performed as a targeted tax area.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was an economically disadvantaged individual 14 years of age or older.

1 (IV) Immediately preceding the qualified employee's
2 commencement of employment with the qualified
3 taxpayer, was a dislocated worker who meets any of the
4 following:

5 (aa) Has been terminated or laid off or who has
6 received a notice of termination or layoff from
7 employment, is eligible for or has exhausted entitlement
8 to unemployment insurance benefits, and is unlikely to
9 return to his or her previous industry or occupation.

10 (bb) Has been terminated or has received a notice of
11 termination of employment as a result of any permanent
12 closure or any substantial layoff at a plant, facility, or
13 enterprise, including an individual who has not received
14 written notification but whose employer has made a
15 public announcement of the closure or layoff.

16 (cc) Is long-term unemployed and has limited
17 opportunities for employment or reemployment in the
18 same or a similar occupation in the area in which the
19 individual resides, including an individual 55 years of age
20 or older who may have substantial barriers to
21 employment by reason of age.

22 (dd) Was self-employed (including farmers and
23 ranchers) and is unemployed as a result of general
24 economic conditions in the community in which he or she
25 resides or because of natural disasters.

26 (ee) Was a civilian employee of the Department of
27 Defense employed at a military installation being closed
28 or realigned under the Defense Base Closure and
29 Realignment Act of 1990.

30 (ff) Was an active member of the armed forces or
31 National Guard as of September 30, 1990, and was either
32 involuntarily separated or separated pursuant to a special
33 benefits program.

34 (gg) Is a seasonal or migrant worker who experiences
35 chronic seasonal unemployment and underemployment
36 in the agriculture industry, aggravated by continual
37 advancements in technology and mechanization.

38 (hh) Has been terminated or laid off, or has received
39 a notice of termination or layoff, as a consequence of
40 compliance with the Clean Air Act.

(V) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(VI) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilty.

(VII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible for or a recipient of any of the following:

(aa) Federal Supplemental Security Income benefits.

(bb) Aid to Families with Dependent Children.

(cc) Food stamps.

(dd) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a resident of a targeted tax area.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible under the federal Targeted Jobs Tax Credit Program.

(5) (A) "Qualified taxpayer" means a person or entity that meets both of the following:

(i) Is engaged in a trade or business within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(ii) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 23634 shall be allowed to the pass-through entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 11 (commencing with Section 23001). For purposes of this subdivision, the term “pass-through entity” means any partnership or S corporation.

(6) “Seasonal employment” means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) If the qualified taxpayer is allowed a credit for qualified wages pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to those qualified wages.

(d) The qualified taxpayer shall do both of the following:

(1) Obtain from either the Employment Development Department, as permitted by federal law, or the local county or city Job Training Partnership Act administrative entity or the local county GAIN office or social services agency, as appropriate, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(e) (1) For purposes of this section:

1 (A) All employees of trades or businesses, which are
2 not incorporated, that are under common control shall be
3 treated as employed by a single taxpayer.

4 (B) The credit, if any, allowable by this section with
5 respect to each trade or business shall be determined by
6 reference to its proportionate share of the expense of the
7 qualified wages giving rise to the credit, and shall be
8 allocated in that manner.

9 (C) Principles that apply in the case of controlled
10 groups of corporations, as specified in subdivision (d) of
11 Section 23634, shall apply with respect to determining
12 employment.

13 (2) If an employer acquires the major portion of a
14 trade or business of another employer (hereinafter in this
15 paragraph referred to as the “predecessor”) or the major
16 portion of a separate unit of a trade or business of a
17 predecessor, then, for purposes of applying this section
18 (other than subdivision (f)) for any calendar year ending
19 after that acquisition, the employment relationship
20 between a qualified employee and an employer shall not
21 be treated as terminated if the employee continues to be
22 employed in that trade or business.

23 (f) (1) (A) If the employment, other than seasonal
24 employment, of any qualified employee, with respect to
25 whom qualified wages are taken into account under
26 subdivision (a) is terminated by the qualified taxpayer at
27 any time during the first 270 days of that employment
28 (whether or not consecutive) or before the close of the
29 270th calendar day after the day in which that employee
30 completes 90 days of employment with the qualified
31 taxpayer, the tax imposed by this part for the taxable year
32 in which that employment is terminated shall be
33 increased by an amount equal to the credit allowed under
34 subdivision (a) for that taxable year and all prior taxable
35 years attributable to qualified wages paid or incurred
36 with respect to that employee.

37 (B) If the seasonal employment of any qualified
38 employee, with respect to whom qualified wages are
39 taken into account under subdivision (a) is not continued
40 by the qualified taxpayer for a period of 270 days of

1 employment during the 60-month period beginning with
2 the day the qualified employee commences seasonal
3 employment with the qualified taxpayer, the tax imposed
4 by this part, for the taxable year that includes the 60th
5 month following the month in which the qualified
6 employee commences seasonal employment with the
7 qualified taxpayer, shall be increased by an amount equal
8 to the credit allowed under subdivision (a) for that
9 taxable year and all prior taxable years attributable to
10 qualified wages paid or incurred with respect to that
11 qualified employee.

12 (2) (A) Subparagraph (A) of paragraph (1) shall not
13 apply to any of the following:

14 (i) A termination of employment of a qualified
15 employee who voluntarily leaves the employment of the
16 qualified taxpayer.

17 (ii) A termination of employment of a qualified
18 employee who, before the close of the period referred to
19 in subparagraph (A) of paragraph (1), becomes disabled
20 and unable to perform the services of that employment,
21 unless that disability is removed before the close of that
22 period and the qualified taxpayer fails to offer
23 reemployment to that employee.

24 (iii) A termination of employment of a qualified
25 employee, if it is determined that the termination was
26 due to the misconduct (as defined in Sections 1256-30 to
27 1256-43, inclusive, of Title 22 of the California Code of
28 Regulations) of that employee.

29 (iv) A termination of employment of a qualified
30 employee due to a substantial reduction in the trade or
31 business operations of the qualified taxpayer.

32 (v) A termination of employment of a qualified
33 employee, if that employee is replaced by other qualified
34 employees so as to create a net increase in both the
35 number of employees and the hours of employment.

36 (B) Subparagraph (B) of paragraph (1) shall not apply
37 to any of the following:

38 (i) A failure to continue the seasonal employment of
39 a qualified employee who voluntarily fails to return to the
40 seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified employee continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(g) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the

1 beneficiaries on the basis of the income of the estate or
2 trust allocable to each.

3 (2) Any beneficiary to whom any qualified wages have
4 been apportioned under paragraph (1) shall be treated,
5 for purposes of this part, as the employer with respect to
6 those wages.

7 (h) For purposes of this section, “targeted tax area”
8 means an area designated pursuant to Chapter 12.93
9 (commencing with Section 7097) of Division 7 of Title 1
10 of the Government Code.

11 (i) In the case where the credit otherwise allowed
12 under this section exceeds the “net tax” for the taxable
13 year, that portion of the credit that exceeds the “net tax”
14 may be carried over and added to the credit, if any, in
15 succeeding taxable years, until the credit is exhausted.
16 The credit shall be applied first to the earliest taxable
17 years possible.

18 (j) (1) The amount of the credit otherwise allowed
19 under this section and Section 17053.33, including any
20 credit carryover from prior years, that may reduce the
21 “net tax” for the taxable year shall not exceed the amount
22 of tax that would be imposed on the qualified taxpayer’s
23 business income attributable to the targeted tax area
24 determined as if that attributable income represented all
25 of the income of the qualified taxpayer subject to tax
26 under this part.

27 (2) The amount of attributable income described in
28 paragraph (1) shall be determined in accordance with
29 Chapter 17 (commencing with Section 25101) of Part 11,
30 modified for purposes of this section as follows:

31 (A) Business income shall be apportioned to the
32 targeted tax area by multiplying the total business income
33 by a fraction, the numerator of which is the property
34 factor plus the payroll factor, and the denominator of
35 which is 2.

36 (B) “The targeted tax area” shall be substituted for
37 “this state.”

38 (3) The portion of any credit remaining, if any, after
39 application of this subdivision, shall be carried over to
40 succeeding taxable years, as if it were an amount

1 exceeding the “net tax” for the taxable year, as provided
2 in subdivision (h).

3 (4) In the event that a credit carryover is allowable
4 under subdivision (h) for any taxable year after the
5 targeted tax area expiration date, the targeted tax area
6 shall be deemed to remain in existence for purposes of
7 computing the limitation specified in this subdivision.

8 SEC. 2. Section 17053.46 of the Revenue and Taxation
9 Code, as amended by Chapter 49 of the Statutes of 1998,
10 is amended to read:

11 17053.46. (a) For each taxable year beginning on or
12 after January 1, 1995, and before January 1, 2003, there
13 shall be allowed as a credit against the “net tax” (as
14 defined in Section 17039) to a qualified taxpayer for
15 hiring a qualified disadvantaged individual or a qualified
16 displaced employee during the taxable year for
17 employment in the LAMBRA. The credit shall be equal
18 to the sum of each of the following:

19 (1) Fifty percent of the qualified wages in the first year
20 of employment.

21 (2) Forty percent of the qualified wages in the second
22 year of employment.

23 (3) Thirty percent of the qualified wages in the third
24 year of employment.

25 (4) Twenty percent of the qualified wages in the
26 fourth year of employment.

27 (5) Ten percent of the qualified wages in the fifth year
28 of employment.

29 (b) For purposes of this section:

30 (1) “Qualified wages” means:

31 (A) That portion of wages paid or incurred by the
32 employer during the taxable year to qualified
33 disadvantaged individuals or qualified displaced
34 employees that does not exceed 150 percent of the
35 minimum wage.

36 (B) The total amount of qualified wages which may be
37 taken into account for purposes of claiming the credit
38 allowed under this section shall not exceed two million
39 dollars (\$2,000,000) per taxable year.

(C) Wages received during the 60-month period beginning with the first day the individual commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “LAMBRA” means a local agency military base recovery area designated in accordance with Section 7114 of the Government Code.

(4) “Qualified disadvantaged individual” means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer’s trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in the LAMBRA.

(B) Who is hired by the employer after the designation of the area as a LAMBRA in which the individual’s services were primarily performed.

(C) Who is any of the following immediately preceding the individual’s commencement of employment with the taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.).

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 as provided pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any individual who has been certified eligible by the Employment Development Department under the

1 federal Targeted Jobs Tax Credit Program whether or not
2 this program is in effect.

3 (5) “Qualified taxpayer” means a taxpayer that
4 conducts a trade or business within a LAMBRA and, for
5 the first two taxable years, has a net increase in jobs
6 (defined as 2,000 paid hours per employee per year) of
7 one or more employees in the LAMBRA.

8 (A) The net increase in the number of jobs shall be
9 determined by subtracting the total number of full-time
10 employees (defined as 2,000 paid hours per employee per
11 year) the taxpayer employed in this state in the taxable
12 year prior to commencing business operations in the
13 LAMBRA from the total number of full-time employees
14 the taxpayer employed in this state during the second
15 taxable year after commencing business operations in the
16 LAMBRA. For taxpayers who commence doing business
17 in this state with their LAMBRA business operation, the
18 number of employees for the taxable year prior to
19 commencing business operations in the LAMBRA shall
20 be zero. If the taxpayer has a net increase in jobs in the
21 state, the credit shall be allowed only if one or more
22 full-time employees is employed within the LAMBRA.

23 (B) The total number of employees employed in the
24 LAMBRA shall equal the sum of both of the following:

25 (i) The total number of hours worked in the LAMBRA
26 for the taxpayer by employees (not to exceed 2,000 hours
27 per employee) who are paid an hourly wage divided by
28 2,000.

29 (ii) The total number of months worked in the
30 LAMBRA for the taxpayer by employees who are salaried
31 employees divided by 12.

32 (C) In the case of a taxpayer who first commences
33 doing business in the LAMBRA during the taxable year,
34 for purposes of clauses (i) and (ii), respectively, of
35 subparagraph (B), the divisors “2,000” and “12” shall be
36 multiplied by a fraction, the numerator of which is the
37 number of months of the taxable year that the taxpayer
38 was doing business in the LAMBRA and the denominator
39 of which is 12.

(6) “Qualified displaced employee” means an individual who satisfies all of the following requirements:

(A) Any civilian or military employee of a base or former base who has been displaced as a result of a federal base closure act.

(B) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer’s trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in a LAMBRA.

(C) Who is hired by the employer after the designation of the area in which services were performed as a LAMBRA.

(7) “Seasonal employment” means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) (1) For purposes of this section, both of the following apply:

(A) All employees of trades or businesses that are under common control shall be treated as employed by a single employer.

(B) The credit (if any) allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.

The regulations prescribed under this paragraph shall be based on principles similar to the principles that apply in the case of controlled groups of corporations as specified in subdivision (e) of Section 23622.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be

1 treated as terminated if the employee continues to be
2 employed in that trade or business.

3 (d) (1) (A) If the employment, other than seasonal
4 employment, of any employee, with respect to whom
5 qualified wages are taken into account under subdivision
6 (a) is terminated by the taxpayer at any time during the
7 first 270 days of that employment (whether or not
8 consecutive) or before the close of the 270th calendar day
9 after the day in which that employee completes 90 days
10 of employment with the taxpayer, the tax imposed by this
11 part for the taxable year in which that employment is
12 terminated shall be increased by an amount (determined
13 under those regulations) equal to the credit allowed
14 under subdivision (a) for that taxable year and all prior
15 taxable years attributable to qualified wages paid or
16 incurred with respect to that employee.

17 (B) If the seasonal employment of any qualified
18 disadvantaged individual, with respect to whom qualified
19 wages are taken into account under subdivision (a) is not
20 continued by the qualified taxpayer for a period of 270
21 days of employment during the 60-month period
22 beginning with the day the qualified disadvantaged
23 individual commences seasonal employment with the
24 qualified taxpayer, the tax imposed by this part, for the
25 taxable year that includes the 60th month following the
26 month in which the qualified disadvantaged individual
27 commences seasonal employment with the qualified
28 taxpayer, shall be increased by an amount equal to the
29 credit allowed under subdivision (a) for that taxable year
30 and all prior taxable years attributable to qualified wages
31 paid or incurred with respect to that qualified
32 disadvantaged individual.

33 (2) (A) Subparagraph (A) of paragraph (1) shall not
34 apply to any of the following:

35 (i) A termination of employment of an employee who
36 voluntarily leaves the employment of the taxpayer.

37 (ii) A termination of employment of an individual
38 who, before the close of the period referred to in
39 subparagraph (A) of paragraph (1), becomes disabled to
40 perform the services of that employment, unless that

1 disability is removed before the close of that period and
2 the taxpayer fails to offer reemployment to that
3 individual.

4 (iii) A termination of employment of an individual, if
5 it is determined that the termination was due to the
6 misconduct (as defined in Sections 1256-30 to 1256-43,
7 inclusive, of Title 22 of the California Code of
8 Regulations) of that individual.

9 (iv) A termination of employment of an individual due
10 to a substantial reduction in the trade or business
11 operations of the taxpayer.

12 (v) A termination of employment of an individual, if
13 that individual is replaced by other qualified employees
14 so as to create a net increase in both the number of
15 employees and the hours of employment.

16 (B) Subparagraph (B) of paragraph (1) shall not apply
17 to any of the following:

18 (i) A failure to continue the seasonal employment of
19 a qualified disadvantaged individual who voluntarily fails
20 to return to the seasonal employment of the qualified
21 taxpayer.

22 (ii) A failure to continue the seasonal employment of
23 a qualified disadvantaged individual who, before the
24 close of the period referred to in subparagraph (B) of
25 paragraph (1), becomes disabled and unable to perform
26 the services of that seasonal employment, unless that
27 disability is removed before the close of that period and
28 the qualified taxpayer fails to offer seasonal employment
29 to that individual.

30 (iii) A failure to continue the seasonal employment of
31 a qualified disadvantaged individual, if it is determined
32 that the failure to continue the seasonal employment was
33 due to the misconduct (as defined in Sections 1256-30 to
34 1256-43, inclusive, of Title 22 of the California Code of
35 Regulations) of that qualified disadvantaged individual.

36 (iv) A failure to continue seasonal employment of a
37 qualified disadvantaged individual due to a substantial
38 reduction in the regular seasonal trade or business
39 operations of the qualified taxpayer.

1 (v) A failure to continue the seasonal employment of
2 a qualified disadvantaged individual, if that individual is
3 replaced by other qualified displaced employees so as to
4 create a net increase in both the number of seasonal
5 employees and the hours of seasonal employment.

6 (C) For purposes of paragraph (1), the employment
7 relationship between the taxpayer and an employee shall
8 not be treated as terminated by reason of a mere change
9 in the form of conducting the trade or business of the
10 taxpayer, if the employee continues to be employed in
11 that trade or business and the taxpayer retains a
12 substantial interest in that trade or business.

13 (3) Any increase in tax under paragraph (1) shall not
14 be treated as tax imposed by this part for purposes of
15 determining the amount of any credit allowable under
16 this part.

17 (4) At the close of the second taxable year, if the
18 taxpayer has not increased the number of its employees
19 as determined by paragraph (5) of subdivision (b), then
20 the amount of the credit previously claimed shall be
21 added to the taxpayer's net tax for the taxpayer's second
22 taxable year.

23 (e) In the case of an estate or trust, both of the
24 following apply:

25 (1) The qualified wages for any taxable year shall be
26 apportioned between the estate or trust and the
27 beneficiaries on the basis of the income of the estate or
28 trust allocable to each.

29 (2) Any beneficiary to whom any qualified wages have
30 been apportioned under paragraph (1) shall be treated
31 (for purposes of this part) as the employer with respect
32 to those wages.

33 (f) The credit shall be reduced by the credit allowed
34 under Section 17053.7. The credit shall also be reduced
35 by the federal credit allowed under Section 51 of the
36 Internal Revenue Code.

37 In addition, any deduction otherwise allowed under
38 this part for the wages or salaries paid or incurred by the
39 taxpayer upon which the credit is based shall be reduced



1 by the amount of the credit, prior to any reduction
2 required by subdivision (g) or (h).

3 (g) In the case where the credit otherwise allowed
4 under this section exceeds the “net tax” for the taxable
5 year, that portion of the credit that exceeds the “net tax”
6 may be carried over and added to the credit, if any, in
7 succeeding years, until the credit is exhausted. The credit
8 shall be applied first to the earliest taxable years possible.

9 (h) (1) The amount of credit otherwise allowed
10 under this section and Section 17053.45, including prior
11 year credit carryovers, that may reduce the “net tax” for
12 the taxable year shall not exceed the amount of tax that
13 would be imposed on the taxpayer’s business income
14 attributed to a LAMBRA determined as if that attributed
15 income represented all of the net income of the taxpayer
16 subject to tax under this part.

17 (2) The amount of attributed income described in
18 paragraph (1) shall be determined in accordance with
19 the provisions of Chapter 17 (commencing with Section
20 25101) of Part 11, modified for purposes of this section as
21 follows:

22 (A) Income shall be apportioned to a LAMBRA by
23 multiplying total business income by a fraction, the
24 numerator of which is the property factor plus the payroll
25 factor, and the denominator of which is 2.

26 (B) “The LAMBRA” shall be substituted for “this
27 state.”

28 (3) The portion of any credit remaining, if any, after
29 application of this subdivision, shall be carried over to
30 succeeding taxable years, as if it were an amount
31 exceeding the “net tax” for the taxable year, as provided
32 in subdivision (g).

33 (i) If the taxpayer is allowed a credit pursuant to this
34 section for qualified wages paid or incurred, only one
35 credit shall be allowed to the taxpayer under this part
36 with respect to any wage consisting in whole or in part of
37 those qualified wages.

38 (j) This section shall remain in effect only until
39 December 1, 2003, and as of that date is repealed.
40 However, any unused credit may continue to be carried

1 forward as provided in subdivision (g), until the credit is
2 exhausted.

3 SEC. 3. Section 17053.47 of the Revenue and Taxation
4 Code is amended to read:

5 17053.47. (a) For each taxable year beginning on or
6 after January 1, 1998, there shall be allowed a credit
7 against the “net tax” (as defined in Section 17039) to a
8 qualified taxpayer for hiring a qualified disadvantaged
9 individual during the taxable year for employment in the
10 Manufacturing Enhancement Area. The credit shall be
11 equal to the sum of each of the following:

12 (1) Fifty percent of the qualified wages in the first year
13 of employment.

14 (2) Forty percent of the qualified wages in the second
15 year of employment.

16 (3) Thirty percent of the qualified wages in the third
17 year of employment.

18 (4) Twenty percent of the qualified wages in the
19 fourth year of employment.

20 (5) Ten percent of the qualified wages in the fifth year
21 of employment.

22 (b) For purposes of this section:

23 (1) “Qualified wages” means:

24 (A) That portion of wages paid or incurred by the
25 qualified taxpayer during the taxable year to qualified
26 disadvantaged individuals that does not exceed 150
27 percent of the minimum wage.

28 (B) The total amount of qualified wages which may be
29 taken into account for purposes of claiming the credit
30 allowed under this section shall not exceed two million
31 dollars (\$2,000,000) per taxable year.

32 (C) Wages received during the 60-month period
33 beginning with the first day the qualified disadvantaged
34 individual commences employment with the qualified
35 taxpayer. Reemployment in connection with any
36 increase, including a regularly occurring seasonal
37 increase, in the trade or business operations of the
38 taxpayer does not constitute commencement of
39 employment for purposes of this section.

1 (D) Qualified wages do not include any wages paid or
2 incurred by the qualified taxpayer on or after the
3 Manufacturing Enhancement Area expiration date.
4 However, wages paid or incurred with respect to
5 qualified employees who are employed by the qualified
6 taxpayer within the Manufacturing Enhancement Area
7 within the 60-month period prior to the Manufacturing
8 Enhancement Area expiration date shall continue to
9 qualify for the credit under this section after the
10 Manufacturing Enhancement Area expiration date, in
11 accordance with all provisions of this section applied as if
12 the Manufacturing Enhancement Area designation were
13 still in existence and binding.

14 (2) “Minimum wage” means the wage established by
15 the Industrial Welfare Commission as provided for in
16 Chapter 1 (commencing with Section 1171) of Part 4 of
17 Division 2 of the Labor Code.

18 (3) “Manufacturing Enhancement Area” means an
19 area designated pursuant to Section 7073.8 of the
20 Government Code according to the procedures of
21 Chapter 12.8 (commencing with Section 7070) of
22 Division 7 of Title 1 of the Government Code.

23 (4) “Manufacturing Enhancement Area expiration
24 date” means the date the Manufacturing Enhancement
25 Area designation expires, is no longer binding, or
26 becomes inoperative.

27 (5) “Qualified disadvantaged individual” means an
28 individual who satisfies all of the following requirements:

29 (A) (i) At least 90 percent of whose services for the
30 qualified taxpayer during the taxable year are directly
31 related to the conduct of the qualified taxpayer’s trade or
32 business located in a Manufacturing Enhancement Area.

33 (ii) Who performs at least 50 percent of his or her
34 services for the qualified taxpayer during the taxable year
35 in the Manufacturing Enhancement Area.

36 (B) Who is hired by the qualified taxpayer after the
37 designation of the area as a Manufacturing Enhancement
38 Area in which the individual’s services were primarily
39 performed.

1 (C) Who is any of the following immediately
2 preceding the individual's commencement of
3 employment with the qualified taxpayer:

4 (i) An individual who has been determined eligible for
5 services under the federal Job Training Partnership Act
6 (29 U.S.C. Sec. 1501 et seq.).

7 (ii) Any voluntary or mandatory registrant under the
8 Greater Avenues for Independence Act of 1985 as
9 provided pursuant to Article 3.2 (commencing with
10 Section 11320) of Chapter 2 of Part 3 of Division 9 of the
11 Welfare and Institutions Code.

12 (iii) Any individual who has been certified eligible by
13 the Employment Development Department under the
14 federal Targeted Jobs Tax Credit Program, whether or
15 not this program is in effect.

16 (6) "Qualified taxpayer" means any taxpayer engaged
17 in a trade or business within a Manufacturing
18 Enhancement Area designated pursuant to Section
19 7073.8 of the Government Code and who meets both of
20 the following requirements:

21 (A) Is engaged in those lines of business described in
22 Codes 2011 to 3999, inclusive, of the Standard Industrial
23 Classification (SIC) Manual published by the United
24 States Office of Management and Budget, 1987 edition.

25 (B) At least 50 percent of the qualified taxpayer's work
26 force hired after the designation of the Manufacturing
27 Enhancement Area is composed of individuals who, at the
28 time of hire, are residents of the county in which the
29 Manufacturing Enhancement Area is located.

30 (C) Of this percentage of local hires, at least 30
31 percent shall be qualified disadvantaged individuals.

32 (7) "Seasonal employment" means employment by a
33 qualified taxpayer that has regular and predictable
34 substantial reductions in trade or business operations.

35 (c) (1) For purposes of this section, all of the following
36 apply:

37 (A) All employees of trades or businesses that are
38 under common control shall be treated as employed by
39 a single qualified taxpayer.

1 (B) The credit (if any) allowable by this section with
2 respect to each trade or business shall be determined by
3 reference to its proportionate share of the expense of the
4 qualified wages giving rise to the credit and shall be
5 allocated in that manner.

6 (C) Principles that apply in the case of controlled
7 groups of corporations, as specified in subdivision (d) of
8 Section 23622.7, shall apply with respect to determining
9 employment.

10 (2) If a qualified taxpayer acquires the major portion
11 of a trade or business of another employer (hereinafter in
12 this paragraph referred to as the “predecessor”) or the
13 major portion of a separate unit of a trade or business of
14 a predecessor, then, for purposes of applying this section
15 (other than subdivision (d)) for any calendar year ending
16 after that acquisition, the employment relationship
17 between a qualified disadvantaged individual and a
18 qualified taxpayer shall not be treated as terminated if the
19 qualified disadvantaged individual continues to be
20 employed in that trade or business.

21 (d) (1) (A) If the employment, other than seasonal
22 employment, of any qualified disadvantaged individual,
23 with respect to whom qualified wages are taken into
24 account under subdivision (b) is terminated by the
25 qualified taxpayer at any time during the first 270 days of
26 that employment (whether or not consecutive) or before
27 the close of the 270th calendar day after the day in which
28 that qualified disadvantaged individual completes 90 days
29 of employment with the qualified taxpayer, the tax
30 imposed by this part for the taxable year in which that
31 employment is terminated shall be increased by an
32 amount equal to the credit allowed under subdivision (a)
33 for that taxable year and all prior taxable years
34 attributable to qualified wages paid or incurred with
35 respect to that qualified disadvantaged individual.

36 (B) If the seasonal employment of any qualified
37 disadvantaged individual, with respect to whom qualified
38 wages are taken into account under subdivision (a) is not
39 continued by the qualified taxpayer for a period of 270
40 days of employment during the 60-month period

1 beginning with the day the qualified disadvantaged
2 individual commences seasonal employment with the
3 qualified taxpayer, the tax imposed by this part, for the
4 taxable year that includes the 60th month following the
5 month in which the qualified disadvantaged individual
6 commences seasonal employment with the qualified
7 taxpayer, shall be increased by an amount equal to the
8 credit allowed under subdivision (a) for that taxable year
9 and all prior taxable years attributable to qualified wages
10 paid or incurred with respect to that qualified
11 disadvantaged individual.

12 (2) (A) Subparagraph (A) of paragraph (1) does not
13 apply to any of the following:

14 (i) A termination of employment of a qualified
15 disadvantaged individual who voluntarily leaves the
16 employment of the qualified taxpayer.

17 (ii) A termination of employment of a qualified
18 disadvantaged individual who, before the close of the
19 period referred to in subparagraph (A) of paragraph (1),
20 becomes disabled to perform the services of that
21 employment, unless that disability is removed before the
22 close of that period and the taxpayer fails to offer
23 reemployment to that individual.

24 (iii) A termination of employment of a qualified
25 disadvantaged individual, if it is determined that the
26 termination was due to the misconduct (as defined in
27 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the
28 California Code of Regulations) of that individual.

29 (iv) A termination of employment of a qualified
30 disadvantaged individual due to a substantial reduction in
31 the trade or business operations of the qualified taxpayer.

32 (v) A termination of employment of a qualified
33 disadvantaged individual, if that individual is replaced by
34 other qualified disadvantaged individuals so as to create
35 a net increase in both the number of employees and the
36 hours of employment.

37 (B) Subparagraph (B) of paragraph (1) shall not apply
38 to any of the following:

39 (i) A failure to continue the seasonal employment of
40 a qualified disadvantaged individual who voluntarily fails

1 to return to the seasonal employment of the qualified
2 taxpayer.

3 (ii) A failure to continue the seasonal employment of
4 a qualified disadvantaged individual who, before the
5 close of the period referred to in subparagraph (B) of
6 paragraph (1), becomes disabled and unable to perform
7 the services of that seasonal employment, unless that
8 disability is removed before the close of that period and
9 the qualified taxpayer fails to offer seasonal employment
10 to that qualified disadvantaged individual.

11 (iii) A failure to continue the seasonal employment of
12 a qualified disadvantaged individual, if it is determined
13 that the failure to continue the seasonal employment was
14 due to the misconduct (as defined in Sections 1256-30 to
15 1256-43, inclusive, of Title 22 of California Code of
16 Regulations) of that qualified disadvantaged individual.

17 (iv) A failure to continue seasonal employment of a
18 qualified disadvantaged individual due to a substantial
19 reduction in the regular seasonal trade or business
20 operations of the qualified taxpayer.

21 (v) A failure to continue the seasonal employment of
22 a qualified disadvantaged individual, if that qualified
23 disadvantaged individual is replaced by other qualified
24 disadvantaged individuals so as to create a net increase in
25 both the number of seasonal employees and the hours of
26 seasonal employment.

27 (C) For purposes of paragraph (1), the employment
28 relationship between the qualified taxpayer and a
29 qualified disadvantaged individual shall not be treated as
30 terminated by reason of a mere change in the form of
31 conducting the trade or business of the qualified
32 taxpayer, if the qualified disadvantaged individual
33 continues to be employed in that trade or business and
34 the qualified taxpayer retains a substantial interest in that
35 trade or business.

36 (3) Any increase in tax under paragraph (1) shall not
37 be treated as tax imposed by this part for purposes of
38 determining the amount of any credit allowable under
39 this part.

1 (e) In the case of an estate or trust, both of the
2 following apply:

3 (1) The qualified wages for any taxable year shall be
4 apportioned between the estate or trust and the
5 beneficiaries on the basis of the income of the estate or
6 trust allocable to each.

7 (2) Any beneficiary to whom any qualified wages have
8 been apportioned under paragraph (1) shall be treated
9 (for purposes of this part) as the employer with respect
10 to those wages.

11 (f) The credit shall be reduced by the credit allowed
12 under Section 17053.7. The credit shall also be reduced by
13 the federal credit allowed under Section 51 of the Internal
14 Revenue Code.

15 In addition, any deduction otherwise allowed under
16 this part for the wages or salaries paid or incurred by the
17 qualified taxpayer upon which the credit is based shall be
18 reduced by the amount of the credit, prior to any
19 reduction required by subdivision (g) or (h).

20 (g) In the case where the credit otherwise allowed
21 under this section exceeds the “net tax” for the taxable
22 year, that portion of the credit that exceeds the “net tax”
23 may be carried over and added to the credit, if any, in
24 succeeding years, until the credit is exhausted. The credit
25 shall be applied first to the earliest taxable years possible.

26 (h) (1) The amount of credit otherwise allowed
27 under this section, including prior year credit carryovers,
28 that may reduce the “net tax” for the taxable year shall
29 not exceed the amount of tax that would be imposed on
30 the qualified taxpayer’s business income attributed to a
31 Manufacturing Enhancement Area determined as if that
32 attributed income represented all of the net income of
33 the qualified taxpayer subject to tax under this part.

34 (2) The amount of attributed income described in
35 paragraph (1) shall be determined in accordance with
36 the provisions of Chapter 17 (commencing with Section
37 25101) of Part 11, modified for purposes of this section as
38 follows:

39 (A) Income shall be apportioned to a Manufacturing
40 Enhancement Area by multiplying total business income

1 by a fraction, the numerator of which is the property
2 factor plus the payroll factor, and the denominator of
3 which is 2.

4 (B) “The Manufacturing Enhancement Area” shall be
5 substituted for “this state.”

6 (3) The portion of any credit remaining, if any, after
7 application of this subdivision, shall be carried over to
8 succeeding taxable years, as if it were an amount
9 exceeding the “net tax” for the taxable year, as provided
10 in subdivision (g).

11 (i) If the taxpayer is allowed a credit pursuant to this
12 section for qualified wages paid or incurred, only one
13 credit shall be allowed to the taxpayer under this part
14 with respect to any wage consisting in whole or in part of
15 those qualified wages.

16 SEC. 4. Section 17053.74 of the Revenue and Taxation
17 Code is amended to read:

18 17053.74. (a) There shall be allowed a credit against
19 the “net tax” (as defined in Section 17039) to a taxpayer
20 who employs a qualified employee in an enterprise zone
21 during the taxable year. The credit shall be equal to the
22 sum of each of the following:

23 (1) Fifty percent of qualified wages in the first year of
24 employment.

25 (2) Forty percent of qualified wages in the second year
26 of employment.

27 (3) Thirty percent of qualified wages in the third year
28 of employment.

29 (4) Twenty percent of qualified wages in the fourth
30 year of employment.

31 (5) Ten percent of qualified wages in the fifth year of
32 employment.

33 (b) For purposes of this section:

34 (1) “Qualified wages” means:

35 (A) (i) Except as provided in clause (ii), that portion
36 of wages paid or incurred by the taxpayer during the
37 taxable year to qualified employees that does not exceed
38 150 percent of the minimum wage.

39 (ii) For up to 1,350 qualified employees who are
40 employed by the taxpayer in the Long Beach Enterprise

1 Zone in aircraft manufacturing activities described in
2 Codes 3721 to 3728, inclusive, and Code 3812 of the
3 Standard Industrial Classification (SIC) Manual
4 published by the United States Office of Management
5 and Budget, 1987 edition, “qualified wages” means that
6 portion of hourly wages that does not exceed 202 percent
7 of the minimum wage.

8 (B) Wages received during the 60-month period
9 beginning with the first day the employee commences
10 employment with the taxpayer. Reemployment in
11 connection with any increase, including a regularly
12 occurring seasonal increase, in the trade or business
13 operations of the taxpayer does not constitute
14 commencement of employment for purposes of this
15 section.

16 (C) Qualified wages do not include any wages paid or
17 incurred by the taxpayer on or after the zone expiration
18 date. However, wages paid or incurred with respect to
19 qualified employees who are employed by the taxpayer
20 within the enterprise zone within the 60-month period
21 prior to the zone expiration date shall continue to qualify
22 for the credit under this section after the zone expiration
23 date, in accordance with all provisions of this section
24 applied as if the enterprise zone designation were still in
25 existence and binding.

26 (2) “Minimum wage” means the wage established by
27 the Industrial Welfare Commission as provided for in
28 Chapter 1 (commencing with Section 1171) of Part 4 of
29 Division 2 of the Labor Code.

30 (3) “Zone expiration date” means the date the
31 enterprise zone designation expires, is no longer binding,
32 or becomes inoperative.

33 (4) (A) “Qualified employee” means an individual
34 who meets all of the following requirements:

35 (i) At least 90 percent of whose services for the
36 taxpayer during the taxable year are directly related to
37 the conduct of the taxpayer’s trade or business located in
38 an enterprise zone.

1 (ii) Performs at least 50 percent of his or her services
2 for the taxpayer during the taxable year in an enterprise
3 zone.

4 (iii) Is hired by the taxpayer after the date of original
5 designation of the area in which services were performed
6 as an enterprise zone.

7 (iv) Is any of the following:

8 (I) Immediately preceding the qualified employee's
9 commencement of employment with the taxpayer, was
10 a person eligible for services under the federal Job
11 Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or
12 its successor, who is receiving, or is eligible to receive,
13 subsidized employment, training, or services funded by
14 the federal Job Training Partnership Act, or its successor.

15 (II) Immediately preceding the qualified employee's
16 commencement of employment with the taxpayer, was
17 a person eligible to be a voluntary or mandatory
18 registrant under the Greater Avenues for Independence
19 Act of 1985 (GAIN) provided for pursuant to Article 3.2
20 (commencing with Section 11320) of Chapter 2 of Part 3
21 of Division 9 of the Welfare and Institutions Code, or its
22 successor.

23 (III) Immediately preceding the qualified employee's
24 commencement of employment with the taxpayer, was
25 an economically disadvantaged individual 14 years of age
26 or older.

27 (IV) Immediately preceding the qualified employee's
28 commencement of employment with the taxpayer, was
29 a dislocated worker who meets any of the following:

30 Has been terminated or laid off or who has received a
31 notice of termination or layoff from employment, is
32 eligible for or has exhausted entitlement to
33 unemployment insurance benefits, and is unlikely to
34 return to his or her previous industry or occupation.

35 Has been terminated or has received a notice of
36 termination of employment as a result of any permanent
37 closure or any substantial layoff at a plant, facility, or
38 enterprise, including an individual who has not received
39 written notification but whose employer has made a
40 public announcement of the closure or layoff.

1 Is long-term unemployed and has limited opportunities
2 for employment or reemployment in the same or a similar
3 occupation in the area in which the individual resides,
4 including an individual 55 years of age or older who may
5 have substantial barriers to employment by reason of age.

6 Was self-employed (including farmers and ranchers)
7 and is unemployed as a result of general economic
8 conditions in the community in which he or she resides
9 or because of natural disasters.

10 Was a civilian employee of the Department of Defense
11 employed at a military installation being closed or
12 realigned under the Defense Base Closure and
13 Realignment Act of 1990.

14 Was an active member of the armed forces or National
15 Guard as of September 30, 1990, and was either
16 involuntarily separated or separated pursuant to a special
17 benefits program.

18 Is a seasonal or migrant worker who experiences
19 chronic seasonal unemployment and underemployment
20 in the agriculture industry, aggravated by continual
21 advancements in technology and mechanization.

22 Has been terminated or laid off, or has received a notice
23 of termination or layoff, as a consequence of compliance
24 with the Clean Air Act.

25 (V) Immediately preceding the qualified employee's
26 commencement of employment with the taxpayer, was
27 a disabled individual who is eligible for or enrolled in, or
28 has completed a state rehabilitation plan or is a
29 service-connected disabled veteran, veteran of the
30 Vietnam era, or veteran who is recently separated from
31 military service.

32 (VI) Immediately preceding the qualified employee's
33 commencement of employment with the taxpayer, was
34 an ex-offender. An individual shall be treated as
35 convicted if he or she was placed on probation by a state
36 court without a finding of guilt.

37 (VII) Immediately preceding the qualified
38 employee's commencement of employment with the
39 taxpayer, was a person eligible for or a recipient of any of
40 the following:

1 Federal Supplemental Security Income benefits.
2 Aid to Families with Dependent Children.
3 Food stamps.
4 State and local general assistance.

5 (VIII) Immediately preceding the qualified
6 employee's commencement of employment with the
7 taxpayer, was a member of a federally recognized Indian
8 tribe, band, or other group of Native American descent.

9 (IX) Immediately preceding the qualified employee's
10 commencement of employment with the taxpayer, was
11 a resident of a targeted employment area, as defined in
12 Section 7072 of the Government Code.

13 (X) An employee who qualified the taxpayer for the
14 enterprise zone hiring credit under former Section
15 17053.8 or the program area hiring credit under former
16 Section 17053.11.

17 (XI) Immediately preceding the qualified employee's
18 commencement of employment with the taxpayer, was
19 a member of a targeted group, as defined in Section 51(d)
20 of the Internal Revenue Code, or its successor.

21 (B) Priority for employment shall be provided to an
22 individual who is enrolled in a qualified program under
23 the federal Job Training Partnership Act or the Greater
24 Avenues for Independence Act of 1985 or who is eligible
25 as a member of a targeted group under the Work
26 Opportunity Tax Credit (Section 51 of the Internal
27 Revenue Code), or its successor.

28 (5) "Taxpayer" means a person or entity engaged in a
29 trade or business within an enterprise zone designated
30 pursuant to Chapter 12.8 (commencing with Section
31 7070) of the Government Code.

32 (6) "Seasonal employment" means employment by a
33 taxpayer that has regular and predictable substantial
34 reductions in trade or business operations.

35 (c) The taxpayer shall do both of the following:

36 (1) Obtain from either the Employment
37 Development Department, as permitted by federal law,
38 or the local county or city Job Training Partnership Act
39 administrative entity or the local county GAIN office or
40 social services agency, as appropriate, a certification

1 which provides that a qualified employee meets the
2 eligibility requirements specified in clause (iv) of
3 subparagraph (A) of paragraph (4) of subdivision (b).
4 The Employment Development Department may
5 provide preliminary screening and referral to a certifying
6 agency. The Employment Development Department
7 shall develop a form for this purpose.

8 (2) Retain a copy of the certification and provide it
9 upon request to the Franchise Tax Board.

10 (d) (1) For purposes of this section:

11 (A) All employees of trades or businesses, which are
12 not incorporated, that are under common control shall be
13 treated as employed by a single taxpayer.

14 (B) The credit, if any, allowable by this section with
15 respect to each trade or business shall be determined by
16 reference to its proportionate share of the expense of the
17 qualified wages giving rise to the credit, and shall be
18 allocated in that manner.

19 (C) Principles that apply in the case of controlled
20 groups of corporations, as specified in subdivision (d) of
21 Section 23622.7, shall apply with respect to determining
22 employment.

23 (2) If an employer acquires the major portion of a
24 trade or business of another employer (hereinafter in this
25 paragraph referred to as the “predecessor”) or the major
26 portion of a separate unit of a trade or business of a
27 predecessor, then, for purposes of applying this section
28 (other than subdivision (e)) for any calendar year ending
29 after that acquisition, the employment relationship
30 between a qualified employee and an employer shall not
31 be treated as terminated if the employee continues to be
32 employed in that trade or business.

33 (e) (1) (A) If the employment, other than seasonal
34 employment, of any qualified employee, with respect to
35 whom qualified wages are taken into account under
36 subdivision (a) is terminated by the taxpayer at any time
37 during the first 270 days of that employment (whether or
38 not consecutive) or before the close of the 270th calendar
39 day after the day in which that employee completes 90
40 days of employment with the taxpayer, the tax imposed

1 by this part for the taxable year in which that
2 employment is terminated shall be increased by an
3 amount equal to the credit allowed under subdivision (a)
4 for that taxable year and all prior taxable years
5 attributable to qualified wages paid or incurred with
6 respect to that employee.

7 (B) If the seasonal employment of any qualified
8 employee, with respect to whom qualified wages are
9 taken into account under subdivision (a) is not continued
10 by the taxpayer for a period of 270 days of employment
11 during the 60-month period beginning with the day the
12 qualified employee commences seasonal employment
13 with the taxpayer, the tax imposed by this part, for the
14 taxable year that includes the 60th month following the
15 month in which the qualified employee commences
16 seasonal employment with the taxpayer, shall be
17 increased by an amount equal to the credit allowed under
18 subdivision (a) for that taxable year and all prior taxable
19 years attributable to qualified wages paid or incurred
20 with respect to that qualified employee.

21 (2) (A) Subparagraph (A) of paragraph (1) shall not
22 apply to any of the following:

23 (i) A termination of employment of a qualified
24 employee who voluntarily leaves the employment of the
25 taxpayer.

26 (ii) A termination of employment of a qualified
27 employee who, before the close of the period referred to
28 in subparagraph (A) of paragraph (1), becomes disabled
29 and unable to perform the services of that employment,
30 unless that disability is removed before the close of that
31 period and the taxpayer fails to offer reemployment to
32 that employee.

33 (iii) A termination of employment of a qualified
34 employee, if it is determined that the termination was
35 due to the misconduct (as defined in Sections 1256-30 to
36 1256-43, inclusive, of Title 22 of the California Code of
37 Regulations) of that employee.

38 (iv) A termination of employment of a qualified
39 employee due to a substantial reduction in the trade or
40 business operations of the taxpayer.

1 (v) A termination of employment of a qualified
2 employee, if that employee is replaced by other qualified
3 employees so as to create a net increase in both the
4 number of employees and the hours of employment.

5 (B) Subparagraph (B) of paragraph (1) shall not apply
6 to any of the following:

7 (i) A failure to continue the seasonal employment of
8 a qualified employee who voluntarily fails to return to the
9 seasonal employment of the taxpayer.

10 (ii) A failure to continue the seasonal employment of
11 a qualified employee who, before the close of the period
12 referred to in subparagraph (B) of paragraph (1),
13 becomes disabled and unable to perform the services of
14 that seasonal employment, unless that disability is
15 removed before the close of that period and the taxpayer
16 fails to offer seasonal employment to that qualified
17 employee.

18 (iii) A failure to continue the seasonal employment of
19 a qualified employee, if it is determined that the failure
20 to continue the seasonal employment was due to the
21 misconduct (as defined in Sections 1256-30 to 1256-43,
22 inclusive, of Title 22 of the California Code of
23 Regulations) of that qualified employee.

24 (iv) A failure to continue seasonal employment of a
25 qualified employee due to a substantial reduction in the
26 regular seasonal trade or business operations of the
27 taxpayer.

28 (v) A failure to continue the seasonal employment of
29 a qualified employee, if that qualified employee is
30 replaced by other qualified employees so as to create a
31 net increase in both the number of seasonal employees
32 and the hours of seasonal employment.

33 (C) For purposes of paragraph (1), the employment
34 relationship between the taxpayer and a qualified
35 employee shall not be treated as terminated by reason of
36 a mere change in the form of conducting the trade or
37 business of the taxpayer, if the qualified employee
38 continues to be employed in that trade or business and
39 the taxpayer retains a substantial interest in that trade or
40 business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(g) For purposes of this section, “enterprise zone” means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 17053.10, 17053.17 and 17053.46 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this section exceeds the “net tax” for the taxable year, that portion of the credit that exceeds the “net tax” may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 17053.70, including any credit carryover from prior years, that may reduce the “net tax” for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer’s business

1 income attributable to the enterprise zone determined as
2 if that attributable income represented all of the income
3 of the taxpayer subject to tax under this part.

4 (2) The amount of attributable income described in
5 paragraph (1) shall be determined in accordance with
6 the provisions of Chapter 17 (commencing with Section
7 25101) of Part 11, modified for purposes of this section by
8 substituting “the enterprise zone” for “this state.”

9 (3) The portion of any credit remaining, if any, after
10 application of this subdivision, shall be carried over to
11 succeeding taxable years, as if it were an amount
12 exceeding the “net tax” for the taxable year, as provided
13 in subdivision (i).

14 (k) The changes made to this section by the act adding
15 this subdivision shall apply to taxable years beginning on
16 or after January 1, 1997.

17 SEC. 5. Section 17276 of the Revenue and Taxation
18 Code, as amended by Chapter 49 of the Statutes of 1998,
19 is amended to read:

20 17276. Except as provided in Sections 17276.1 ,
21 17276.2, 17276.4, 17276.5, and 17276.6, the deduction
22 provided by Section 172 of the Internal Revenue Code,
23 relating to a net operating loss deduction, shall be
24 modified as follows:

25 (a) (1) Net operating losses attributable to taxable
26 years beginning before January 1, 1987, shall not be
27 allowed.

28 (2) A net operating loss shall not be carried forward to
29 any taxable year beginning before January 1, 1987.

30 (b) (1) Except as provided in paragraphs (2) and (3),
31 the provisions of Section 172(b)(2) of the Internal
32 Revenue Code, relating to the amount of carryovers, shall
33 be modified so that 50 percent of the entire amount of the
34 net operating loss for any taxable year shall not be eligible
35 for carryover to any subsequent taxable year.

36 (2) In the case of a taxpayer who has a net operating
37 loss in a taxable year beginning on or after January 1, 1994,
38 and who operates a new business during that taxable year,
39 each of the following shall apply to each loss incurred

1 during the first three taxable years of operating the new
2 business:

3 (A) If the net operating loss is equal to or less than the
4 net loss from the new business, 100 percent of the net
5 operating loss shall be carried forward as provided in
6 paragraph (2) of subdivision (d).

7 (B) If the net operating loss is greater than the net loss
8 from the new business, the net operating loss shall be
9 carried over as follows:

10 (i) With respect to an amount equal to the net loss
11 from the new business, 100 percent of that amount shall
12 be carried forward as provided in paragraph (2) of
13 subdivision (d).

14 (ii) With respect to the portion of the net operating
15 loss which exceeds the net loss from the new business, 50
16 percent of that amount shall be a net operating loss
17 carryover to each of the five taxable years following the
18 taxable year of the loss.

19 (C) For purposes of Section 172(b)(2) of the Internal
20 Revenue Code, the amount described in clause (ii) of
21 subparagraph (B) shall be absorbed before the amount
22 described in clause (i) of subparagraph (B).

23 (3) In the case of a taxpayer who has a net operating
24 loss in a taxable year beginning on or after January 1, 1994,
25 and who operates an eligible small business during that
26 taxable year, each of the following shall apply:

27 (A) If the net operating loss is equal to or less than the
28 net loss from the eligible small business, 100 percent of the
29 net operating loss shall be carried forward to the taxable
30 years specified in paragraph (1) of subdivision (d).

31 (B) If the net operating loss is greater than the net loss
32 from the eligible small business, the net operating loss
33 shall be carried over as follows:

34 (i) With respect to an amount equal to the net loss
35 from the eligible small business, 100 percent of that
36 amount shall be carried forward to each of the five taxable
37 years following the taxable year of the loss.

38 (ii) With respect to the portion of the net operating
39 loss that exceeds the net loss from the eligible small
40 business, 50 percent of that amount shall be a net

1 operating loss carryover to each of the five taxable years
2 following the taxable year of the loss.

3 (C) For purposes of Section 172(b)(2) of the Internal
4 Revenue Code, the amount described in clause (ii) of
5 subparagraph (B) shall be absorbed before the amount
6 described in clause (i) of subparagraph (B).

7 (4) In the case of a taxpayer who has a net operating
8 loss in a taxable year beginning on or after January 1, 1994,
9 and who operates a business that qualifies as both a new
10 business and an eligible small business under this section,
11 that business shall be treated as a new business for the first
12 three taxable years of the new business.

13 (5) In the case of a taxpayer who has a net operating
14 loss in a taxable year beginning on or after January 1, 1994,
15 and who operates more than one business, and more than
16 one of those businesses qualifies as either a new business
17 or an eligible small business under this section, paragraph
18 (2) shall be applied first, except that if there is any
19 remaining portion of the net operating loss after
20 application of clause (i) of subparagraph (B) of that
21 paragraph, paragraph (3) shall be applied to the
22 remaining portion of the net operating loss as though that
23 remaining portion of the net operating loss constituted
24 the entire net operating loss.

25 (6) For purposes of this section, the term “net loss”
26 means the amount of net loss after application of Sections
27 465 and 469 of the Internal Revenue Code.

28 (c) Net operating loss carrybacks shall not be allowed.

29 (d) (1) Except as provided in paragraphs (2) and (3),
30 for each taxable year beginning on or after January 1,
31 1987, Section 172(b)(1)(A)(ii) of the Internal Revenue
32 Code, relating to years to which net operating losses may
33 be carried, is modified to substitute “five taxable years”
34 in lieu of “15 taxable years.”

35 (2) In the case of a “new business,” the “five taxable
36 years” in paragraph (1) shall be modified to read as
37 follows:

38 (A) “Eight taxable years” for a net operating loss
39 attributable to the first taxable year of that new business.

1 (B) “Seven taxable years” for a net operating loss
2 attributable to the second taxable year of that new
3 business.

4 (C) “Six taxable years” for a net operating loss
5 attributable to the third taxable year of that new business.

6 (3) For any carryover of a net operating loss for which
7 a deduction is denied by Section 17276.3, the carryover
8 period specified in this subdivision shall be extended as
9 follows:

10 (A) By one year for a net operating loss attributable to
11 taxable years beginning in 1991.

12 (B) By two years for a net operating loss attributable
13 to taxable years beginning prior to January 1, 1991.

14 (4) The net operating loss attributable to taxable years
15 beginning on or after January 1, 1987, and before January
16 1, 1994, shall be a net operating loss carryover to each of
17 the 10 taxable years following the year of the loss if it is
18 incurred by a taxpayer that is under the jurisdiction of the
19 court in a Title 11 or similar case at any time during the
20 income year. The loss carryover provided in the
21 preceding sentence shall not apply to any loss incurred
22 after the date the taxpayer is no longer under the
23 jurisdiction of the court in a Title 11 or similar case.

24 (e) For purposes of this section:

25 (1) “Eligible small business” means any trade or
26 business that has gross receipts, less returns and
27 allowances, of less than one million dollars (\$1,000,000)
28 during the taxable year.

29 (2) Except as provided in subdivision (f), “new
30 business” means any trade or business activity that is first
31 commenced in this state on or after January 1, 1994.

32 (3) “Title 11 or similar case” shall have the same
33 meaning as in Section 368(a)(3) of the Internal Revenue
34 Code.

35 (4) In the case of any trade or business activity
36 conducted by a partnership or S corporation, paragraphs
37 (1) and (2) shall be applied to the partnership or S
38 corporation.

39 (f) For purposes of this section, in determining
40 whether a trade or business activity qualifies as a new

1 business under paragraph (2) of subdivision (e), the
2 following rules shall apply:

3 (1) In any case where a taxpayer purchases or
4 otherwise acquires all or any portion of the assets of an
5 existing trade or business (irrespective of the form of
6 entity) that is doing business in this state (within the
7 meaning of Section 23101), the trade or business
8 thereafter conducted by the taxpayer (or any related
9 person) shall not be treated as a new business if the
10 aggregate fair market value of the acquired assets
11 (including real, personal, tangible, and intangible
12 property) used by the taxpayer (or any related person)
13 in the conduct of its trade or business exceeds 20 percent
14 of the aggregate fair market value of the total assets of the
15 trade or business being conducted by the taxpayer (or
16 any related person). For purposes of this paragraph only,
17 the following rules shall apply:

18 (A) The determination of the relative fair market
19 values of the acquired assets and the total assets shall be
20 made as of the last day of the first taxable year in which
21 the taxpayer (or any related person) first uses any of the
22 acquired trade or business assets in its business activity.

23 (B) Any acquired assets that constituted property
24 described in Section 1221(1) of the Internal Revenue
25 Code in the hands of the transferor shall not be treated as
26 assets acquired from an existing trade or business, unless
27 those assets also constitute property described in Section
28 1221(1) of the Internal Revenue Code in the hands of the
29 acquiring taxpayer (or related person).

30 (2) In any case where a taxpayer (or any related
31 person) is engaged in one or more trade or business
32 activities in this state, or has been engaged in one or more
33 trade or business activities in this state within the
34 preceding 36 months (“prior trade or business activity”),
35 and thereafter commences an additional trade or
36 business activity in this state, the additional trade or
37 business activity shall only be treated as a new business if
38 the additional trade or business activity is classified under
39 a different division of the Standard Industrial
40 Classification (SIC) Manual published by the United

1 States Office of Management and Budget, 1987 edition,
2 than are any of the taxpayer's (or any related person's)
3 current or prior trade or business activities.

4 (3) In any case where a taxpayer, including all related
5 persons, is engaged in trade or business activities wholly
6 outside of this state and the taxpayer first commences
7 doing business in this state (within the meaning of Section
8 23101) after December 31, 1993 (other than by purchase
9 or other acquisition described in paragraph (1)), the
10 trade or business activity shall be treated as a new
11 business under paragraph (2) of subdivision (e).

12 (4) In any case where the legal form under which a
13 trade or business activity is being conducted is changed,
14 the change in form shall be disregarded and the
15 determination of whether the trade or business activity
16 is a new business shall be made by treating the taxpayer
17 as having purchased or otherwise acquired all or any
18 portion of the assets of an existing trade or business under
19 the rules of paragraph (1) of this subdivision.

20 (5) "Related person" shall mean any person that is
21 related to the taxpayer under either Section 267 or 318 of
22 the Internal Revenue Code.

23 (6) "Acquire" shall include any gift, inheritance,
24 transfer incident to divorce, or any other transfer,
25 whether or not for consideration.

26 (7) (A) For taxable years beginning on or after
27 January 1, 1997, the term "new business" shall include any
28 taxpayer that is engaged in biopharmaceutical activities
29 or other biotechnology activities that are described in
30 Codes 2833 to 2836, inclusive, of the Standard Industrial
31 Classification (SIC) Manual published by the United
32 States Office of Management and Budget, 1987 edition,
33 and as further amended, and that has not received
34 regulatory approval for any product from the United
35 States Food and Drug Administration.

36 (B) For purposes of this paragraph:

37 (i) "Biopharmaceutical activities" means those
38 activities which use organisms or materials derived from
39 organisms, and their cellular, subcellular, or molecular
40 components, in order to provide pharmaceutical

1 products for human or animal therapeutics and
2 diagnostics. Biopharmaceutical activities make use of
3 living organisms to make commercial products, as
4 opposed to pharmaceutical activities which make use of
5 chemical compounds to produce commercial products.

6 (ii) “Other biotechnology activities” means activities
7 consisting of the application of recombinant DNA
8 technology to produce commercial products, as well as
9 activities regarding pharmaceutical delivery systems
10 designed to provide a measure of control over the rate,
11 duration, and site of pharmaceutical delivery.

12 (g) In computing the modifications under Section
13 172(d)(2) of the Internal Revenue Code, relating to
14 capital gains and losses of taxpayers other than
15 corporations, the exclusion provided by Section 18152.5
16 shall not be allowed.

17 (h) Notwithstanding any provisions of this section, a
18 deduction shall be allowed to a “qualified taxpayer” as
19 provided in Sections 17276.1 , 17276.2, 17276.4, 17276.5,
20 and 17276.6.

21 (i) The Franchise Tax Board may prescribe
22 appropriate regulations to carry out the purposes of this
23 section, including any regulations necessary to prevent
24 the avoidance of the purposes of this section through
25 splitups, shell corporations, partnerships, tiered
26 ownership structures, or otherwise.

27 (j) The Franchise Tax Board may reclassify any net
28 operating loss carryover determined under either
29 paragraph (2) or (3) of subdivision (b) as a net operating
30 loss carryover under paragraph (1) of subdivision (b)
31 upon a showing that the reclassification is necessary to
32 prevent evasion of the purposes of this section.

33 (k) The amendments made by the act adding this
34 subdivision shall be operative for taxable years beginning
35 on or after January 1, 1997.

36 SEC. 6. Section 17276.1 of the Revenue and Taxation
37 Code is amended to read:

38 17276.1. (a) A qualified taxpayer, as defined in
39 Section 17276.2, 17276.4, 17276.5, or 17276.6, may elect to
40 take the deduction provided by Section 172 of the

1 Internal Revenue Code, relating to the net operating loss
2 deduction, as modified by Section 17276, with the
3 following exceptions:

4 (1) Subdivision (a) of Section 17276, relating to years
5 in which allowable losses are sustained, shall not be
6 applicable.

7 (2) Subdivision (b) of Section 17276, relating to the
8 50-percent reduction of losses, shall not be applicable.

9 (b) The election to compute the net operating loss
10 under this section shall be made in a statement attached
11 to the original return, timely filed for the year in which
12 the net operating loss is incurred and shall be irrevocable.
13 In addition to the exceptions specified in subdivision (a),
14 the provisions of Section 17276.2, 17276.4, 17276.5, or
15 17276.6, as appropriate, shall be applicable.

16 (c) Any carryover of a net operating loss sustained by
17 a qualified taxpayer, as defined in subdivision (a) or (b)
18 of Section 17276.2 as that section read immediately prior
19 to January 1, 1997, shall, if previously elected, continue to
20 be a deduction, as provided in subdivision (a), applied as
21 if the provisions of subdivision (a) or (b) of Section
22 17276.2, as that section read prior to January 1, 1997, still
23 applied.

24 SEC. 7. Section 17276.2 of the Revenue and Taxation
25 Code is amended to read:

26 17276.2. (a) The term “qualified taxpayer” as used in
27 Section 17276.1 includes a person or entity engaged in the
28 conduct of a trade or business within an enterprise zone
29 designated pursuant to Chapter 12.8 (commencing with
30 Section 7070) of Division 7 of Title 1 of the Government
31 Code. For purposes of this subdivision, all of the following
32 shall apply:

33 (1) A net operating loss shall not be a net operating loss
34 carryback to any taxable year and a net operating loss for
35 any taxable year beginning on or after the date that the
36 area in which the taxpayer conducts a trade or business
37 is designated as an enterprise zone shall be a net
38 operating loss carryover to each of the 15 taxable years
39 following the taxable year of loss.

40 (2) For purposes of this subdivision:

1 (A) “Net operating loss” means the loss determined
2 under Section 172 of the Internal Revenue Code, as
3 modified by Section 17276.1, attributable to the taxpayer’s
4 business activities within the enterprise zone (as defined
5 in Chapter 12.8 (commencing with Section 7070) of
6 Division 7 of Title 1 of the Government Code) prior to the
7 enterprise zone expiration date. That attributable loss
8 shall be determined in accordance with Chapter 17
9 (commencing with Section 25101) of Part 11, modified for
10 purposes of this section by substituting “enterprise zone”
11 for “this state.”

12 (B) A net operating loss carryover shall be a deduction
13 only with respect to the taxpayer’s business income
14 attributable to the enterprise zone (as defined in Chapter
15 12.8 (commencing with Section 7070) of Division 7 of
16 Title 1 of the Government Code) determined in
17 accordance with Chapter 17 (commencing with Section
18 25101) of Part 11, modified for purposes of this section by
19 substituting “enterprise zone” for “this state.”

20 (C) If a loss carryover is allowable pursuant to this
21 section for any taxable year after the enterprise zone
22 designation has expired, the enterprise zone shall be
23 deemed to remain in existence for purposes of computing
24 the limitation set forth in subparagraph (B) and allowing
25 a net operating loss deduction.

26 (D) “Enterprise zone expiration date” means the date
27 the enterprise zone designation expires, is no longer
28 binding, or becomes inoperative.

29 (b) A taxpayer who qualifies as a “qualified taxpayer”
30 under one or more sections shall, for the taxable year of
31 the net operating loss and any taxable year to which that
32 net operating loss may be carried, designate on the
33 original return filed for each year the section which
34 applies to that taxpayer with respect to that net operating
35 loss. If the taxpayer is eligible to qualify under more than
36 one section, the designation is to be made after taking into
37 account subdivision (c).

38 (c) If a taxpayer is eligible to qualify under this section
39 and either Section 17276.4, 17276.5, or 17276.6 as a
40 “qualified taxpayer,” with respect to a net operating loss

1 in a taxable year, the taxpayer shall designate which
2 section is to apply to the taxpayer.

3 (d) Notwithstanding Section 17276, the amount of the
4 loss determined under this section or Section 17276.4,
5 17276.5, or 17276.6 shall be the only net operating loss
6 allowed to be carried over from that taxable year and the
7 designation under subdivision (b) shall be included in the
8 election under Section 17276.1.

9 SEC. 8. Section 17276.4 is added to the Revenue and
10 Taxation Code, to read:

11 17276.4. (a) The term “qualified taxpayer” as used in
12 Section 17276.1 includes a person or entity engaged in the
13 conduct of a trade or business within the Los Angeles
14 Revitalization Zone designated pursuant to Section 7102
15 of the Government Code. For purposes of this
16 subdivision, all of the following shall apply:

17 (1) A net operating loss shall not be a net operating loss
18 carryback for any taxable year, and a net operating loss
19 for any taxable year beginning on or after the date the
20 area in which the taxpayer conducts a trade or business
21 is designated the Los Angeles Revitalization Zone shall be
22 a net operating loss carryover to each following taxable
23 year that ends before the Los Angeles Revitalization
24 Zone expiration date or to each of the 15 taxable years
25 following the taxable year of loss, if longer.

26 (2) “Net operating loss” means the loss determined
27 under Section 172 of the Internal Revenue Code, as
28 modified by Section 17276.1, attributable to the taxpayer’s
29 business activities within the Los Angeles Revitalization
30 Zone (as defined in Section 7102 of the Government
31 Code) prior to the Los Angeles Revitalization Zone
32 expiration date. The attributable loss shall be determined
33 in accordance with Chapter 17 (commencing with
34 Section 25101) of Part 11, modified as follows:

35 (A) Loss shall be apportioned to the Los Angeles
36 Revitalization Zone by multiplying total loss from the
37 business by a fraction, the numerator of which is the
38 property factor plus the payroll factor, and the
39 denominator of which is 2.

1 (B) “The Los Angeles Revitalization Zone” shall be
2 substituted for “this state.”

3 (3) A net operating loss carryover shall be a deduction
4 only with respect to the taxpayer’s business income
5 attributable to the Los Angeles Revitalization Zone (as
6 defined in Section 7102 of the Government Code)
7 determined in accordance with subdivision (c).

8 (4) If a loss carryover is allowable pursuant to this
9 section for any taxable year after the Los Angeles
10 Revitalization Zone designation has expired, the Los
11 Angeles Revitalization Zone shall be deemed to remain
12 in existence for purposes of computing the limitation set
13 forth in paragraph (2) and allowing a net operating loss
14 deduction.

15 (5) Attributable income shall be that portion of the
16 taxpayer’s California source business income which is
17 apportioned to the Los Angeles Revitalization Zone. For
18 that purpose, the taxpayer’s business income attributable
19 to sources in this state first shall be determined in
20 accordance with Chapter 17 (commencing with Section
21 25101) of Part 11. That business income shall be further
22 apportioned to the Los Angeles Revitalization Zone in
23 accordance with Article 2 (commencing with Section
24 25120) of Chapter 17 of Part 11, modified as follows:

25 (A) Business income shall be apportioned to the Los
26 Angeles Revitalization Zone by multiplying total
27 California business income of the taxpayer by a fraction,
28 the numerator of which is the property factor plus the
29 payroll factor, and the denominator of which is 2.

30 (B) The property factor is a fraction, the numerator of
31 which is the average value of the taxpayer’s real and
32 tangible personal property owned or rented and used in
33 the Los Angeles Revitalization Zone during the taxable
34 year and the denominator of which is the average value
35 of all the taxpayer’s real and tangible personal property
36 owned or rented and used in this state during the taxable
37 year.

38 (C) The payroll factor is a fraction, the numerator of
39 which is the total amount paid by the taxpayer in the Los
40 Angeles Revitalization Zone during the taxable year for

1 compensation, and the denominator of which is the total
2 compensation paid by the taxpayer in this state during the
3 taxable year.

4 (6) “Los Angeles Revitalization Zone expiration date”
5 means the date the Los Angeles Revitalization Zone
6 designation expires, is repealed, or becomes inoperative
7 pursuant to Section 7102, 7103, or 7104 of the Government
8 Code.

9 (b) This section shall be inoperative on the first day of
10 the taxable year beginning on or after the determination
11 date, and each taxable year thereafter, with respect to the
12 taxpayer’s business activities within a geographic area
13 that is excluded from the map pursuant to Section 7102 of
14 the Government Code, or an excluded area determined
15 pursuant to Section 7104 of the Government Code. The
16 determination date is the earlier of the first effective date
17 of a determination under subdivision (c) of Section 7102
18 of the Government Code occurring after December 1,
19 1994, or the first effective date of an exclusion of an area
20 from the amended Los Angeles Revitalization Zone
21 under Section 7104 of the Government Code. However,
22 if the taxpayer has any unused loss amount as of the date
23 this section becomes inoperative, that unused loss
24 amount may continue to be carried forward as provided
25 in this section.

26 (c) A taxpayer who qualifies as a “qualified taxpayer”
27 under one or more sections shall, for the taxable year of
28 the net operating loss and any taxable year to which that
29 net operating loss may be carried, designate on the
30 original return filed for each year the section that applies
31 to that taxpayer with respect to that net operating loss. If
32 the taxpayer is eligible to qualify under more than one
33 section, the designation is to be made after taking into
34 account subdivision (d).

35 (d) If a taxpayer is eligible to qualify under this section
36 and either Section 17276.2, 17276.5, or 17276.6 as a
37 “qualified taxpayer,” with respect to a net operating loss
38 in a taxable year, the taxpayer shall designate which
39 section is to apply to the taxpayer.

(e) Notwithstanding Section 17276, the amount of the loss determined under this section or Section 17276.2, 17276.5, or 17276.6 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (c) shall be included in the election under Section 17276.1.

(f) This section shall cease to be operative on December 1, 1998. However, any unused net operating loss may continue to be carried over to following years as provided in this section.

SEC. 9. Section 17276.5 is added to the Revenue and Taxation Code, to read:

17276.5. (a) For each taxable year beginning on or after January 1, 1995, and before January 1, 2003, the term “qualified taxpayer” as used in Section 17276.1 includes a taxpayer engaged in the conduct of a trade or business within a LAMBRA. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year, and a net operating loss for any taxable year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated a LAMBRA shall be a net operating loss carryover to each following taxable year that ends before the LAMBRA expiration date or to each of the 15 taxable years following the taxable year of loss, if longer.

(2) “LAMBRA” means a local agency military base recovery area designated in accordance with Section 7114 of the Government Code.

(3) “Taxpayer” means a person or entity that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA and this state. For purposes of this paragraph:

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the

1 LAMBRA from the total number of full-time employees
2 the taxpayer employed in this state during the second
3 taxable year after commencing business operations in the
4 LAMBRA. For taxpayers who commence doing business
5 in this state with their LAMBRA business operation, the
6 number of employees for the taxable year prior to
7 commencing business operations in the LAMBRA shall
8 be zero. The deduction shall be allowed only if the
9 taxpayer has a net increase in jobs in the state, and if one
10 or more full-time employees is employed within the
11 LAMBRA.

12 (B) The total number of employees employed in the
13 LAMBRA shall equal the sum of both of the following:

14 (i) The total number of hours worked in the LAMBRA
15 for the taxpayer by employees (not to exceed 2,000 hours
16 per employee) who are paid an hourly wage divided by
17 2,000.

18 (ii) The total number of months worked in the
19 LAMBRA for the taxpayer by employees who are salaried
20 employees divided by 12.

21 (C) In the case of a taxpayer who first commences
22 doing business in the LAMBRA during the taxable year,
23 for purposes of clauses (i) and (ii), respectively, of
24 subparagraph (B) the divisors “2,000” and “12” shall be
25 multiplied by a fraction, the numerator of which is the
26 number of months of the taxable year that the taxpayer
27 was doing business in the LAMBRA and the denominator
28 of which is 12.

29 (4) “Net operating loss” means the loss determined
30 under Section 172 of the Internal Revenue Code, as
31 modified by Section 17276.1, attributable to the taxpayer’s
32 business activities within a LAMBRA prior to the
33 LAMBRA expiration date. The attributable loss shall be
34 determined in accordance with Chapter 17
35 (commencing with Section 25101) of Part 11, modified as
36 follows:

37 (A) Loss shall be apportioned to a LAMBRA by
38 multiplying total loss from the business by a fraction, the
39 numerator of which is the property factor plus the payroll
40 factor, and the denominator of which is 2.

1 (B) “The LAMBRA” shall be substituted for “this
2 state.”

3 (5) A net operating loss carryover shall be a deduction
4 only with respect to the taxpayer’s business income
5 attributable to a LAMBRA determined in accordance
6 with Chapter 17 (commencing with Section 25101) of
7 Part 11, modified as follows:

8 (A) Business income shall be apportioned to a
9 LAMBRA by multiplying total business income by a
10 fraction, the numerator of which is the property factor
11 plus the payroll factor, and the denominator of which is
12 2.

13 (B) “The LAMBRA” shall be substituted for “this
14 state.”

15 (C) If a loss carryover is allowable pursuant to this
16 section for any taxable year after the LAMBRA
17 designation has expired, the LAMBRA shall be deemed
18 to remain in existence for purposes of computing this
19 limitation.

20 (6) “LAMBRA expiration date” means the date the
21 LAMBRA designation expires, is no longer binding, or
22 becomes inoperative pursuant to Section 7110 of the
23 Government Code.

24 (b) A taxpayer who qualifies as a “qualified taxpayer”
25 under one or more sections shall, for the taxable year of
26 the net operating loss and any taxable year to which that
27 net operating loss may be carried, designate on the
28 original return filed for each year the section that applies
29 to that taxpayer with respect to that net operating loss. If
30 the taxpayer is eligible to qualify under more than one
31 section, the designation is to be made after taking into
32 account subdivision (c).

33 (c) If a taxpayer is eligible to qualify under this section
34 and either Section 17276.2, 17276.4, or 17276.6 as a
35 “qualified taxpayer,” with respect to a net operating loss
36 in a taxable year, the taxpayer shall designate which
37 section is to apply to the taxpayer.

38 (d) Notwithstanding Section 17276, the amount of the
39 loss determined under this section or Section 17276.2,
40 17276.4, or 17276.6 shall be the only net operating loss

1 allowed to be carried over from that taxable year and the
2 designation under subdivision (b) shall be included in the
3 election under Section 17276.1.

4 SEC. 10. Section 17276.6 is added to the Revenue and
5 Taxation Code, to read:

6 17276.6. (a) For each taxable year beginning on or
7 after January 1, 1998, the term “qualified taxpayer” as
8 used in Section 17276.1 includes a person or entity that
9 meets both of the following:

10 (1) Is engaged in a trade or business within a targeted
11 tax area designated pursuant to Chapter 12.93
12 (commencing with Section 7097) of Division 7 of Title 1
13 of the Government Code.

14 (2) Is engaged in those lines of business described in
15 Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200
16 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199,
17 inclusive, of the Standard Industrial Classification (SIC)
18 Manual published by the United States Office of
19 Management and Budget, 1987 edition. In the case of any
20 pass-through entity, the determination of whether a
21 taxpayer is a qualified taxpayer under this section shall be
22 made at the entity level.

23 (b) For purposes of subdivision (a), all of the following
24 shall apply:

25 (1) A net operating loss shall not be a net operating loss
26 carryback to any taxable year and a net operating loss for
27 any taxable year beginning on or after the date that the
28 area in which the qualified taxpayer conducts a trade or
29 business is designated as a targeted tax area shall be a net
30 operating loss carryover to each of the 15 taxable years
31 following the taxable year of loss.

32 (2) “Net operating loss” means the loss determined
33 under Section 172 of the Internal Revenue Code, as
34 modified by Section 17276.1, attributable to the qualified
35 taxpayer’s business activities within the targeted tax area
36 (as defined in Chapter 12.93 (commencing with Section
37 7097) of Division 7 of Title 1 of the Government Code)
38 prior to the targeted tax area expiration date. That
39 attributable loss shall be determined in accordance with

1 Chapter 17 (commencing with Section 25101) of Part 11,
2 modified for purposes of this section as follows:

3 (A) Loss shall be apportioned to the targeted tax area
4 by multiplying total loss from the business by a fraction,
5 the numerator of which is the property factor plus the
6 payroll factor, and the denominator of which is 2.

7 (B) “The targeted tax area” shall be substituted for
8 “this state.”

9 (3) A net operating loss carryover shall be a deduction
10 only with respect to the qualified taxpayer’s business
11 income attributable to the targeted tax area (as defined
12 in Chapter 12.93 (commencing with Section 7097) of
13 Division 7 of Title 1 of the Government Code)
14 determined in accordance with Chapter 17
15 (commencing with Section 25101) of Part 11, modified for
16 purposes of this section as follows:

17 (A) Business income shall be apportioned to the
18 targeted tax area by multiplying the total business income
19 by a fraction, the numerator of which is the property
20 factor plus the payroll factor, and the denominator of
21 which is 2.

22 (B) “The targeted tax area” shall be substituted for
23 “this state.”

24 (4) If a loss carryover is allowable pursuant to this
25 section for any taxable year after the targeted tax area
26 expiration date, the targeted tax area designation shall be
27 deemed to remain in existence for purposes of computing
28 the limitation specified in paragraph (2).

29 (5) “Targeted tax area expiration date” means the
30 date the targeted tax area designation expires, is revoked,
31 is no longer binding, or becomes inoperative.

32 (b) A taxpayer who qualifies as a “qualified taxpayer”
33 under one or more sections shall, for the taxable year of
34 the net operating loss and any taxable year to which that
35 net operating loss may be carried, designate on the
36 original return filed for each year the section that applies
37 to that taxpayer with respect to that net operating loss. If
38 the taxpayer is eligible to qualify under more than one
39 section, the designation is to be made after taking into
40 account subdivision (c).

(c) If a taxpayer is eligible to qualify under this section and either Section 17276.2, 17276.4, or 17276.5 as a “qualified taxpayer,” with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(d) Notwithstanding Section 17276, the amount of the loss determined under this section or Section 17276.2, 17276.4, or 17276.5 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 17276.1.

SEC. 11. Section 23622.7 of the Revenue and Taxation Code is amended to read:

23622.7. (a) There shall be allowed a credit against the “tax” (as defined by Section 23036) to a taxpayer who employs a qualified employee in an enterprise zone during the income year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) “Qualified wages” means:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the taxpayer during the income year to qualified employees that does not exceed 150 percent of the minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described in Codes 3721 to 3728, inclusive, and Code 3812 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management

1 and Budget, 1987 edition, “qualified wages” means that
2 portion of hourly wages that does not exceed 202 percent
3 of the minimum wage.

4 (B) Wages received during the 60-month period
5 beginning with the first day the employee commences
6 employment with the taxpayer. Reemployment in
7 connection with any increase, including a regularly
8 occurring seasonal increase, in the trade or business
9 operations of the taxpayer does not constitute
10 commencement of employment for purposes of this
11 section.

12 (C) Qualified wages do not include any wages paid or
13 incurred by the taxpayer on or after the zone expiration
14 date. However, wages paid or incurred with respect to
15 qualified employees who are employed by the taxpayer
16 within the enterprise zone within the 60-month period
17 prior to the zone expiration date shall continue to qualify
18 for the credit under this section after the zone expiration
19 date, in accordance with all provisions of this section
20 applied as if the enterprise zone designation were still in
21 existence and binding.

22 (2) “Minimum wage” means the wage established by
23 the Industrial Welfare Commission as provided for in
24 Chapter 1 (commencing with Section 1171) of Part 4 of
25 Division 2 of the Labor Code.

26 (3) “Zone expiration date” means the date the
27 enterprise zone designation expires, is no longer binding,
28 or becomes inoperative.

29 (4) (A) “Qualified employee” means an individual
30 who meets all of the following requirements:

31 (i) At least 90 percent of whose services for the
32 taxpayer during the income year are directly related to
33 the conduct of the taxpayer’s trade or business located in
34 an enterprise zone.

35 (ii) Performs at least 50 percent of his or her services
36 for the taxpayer during the income year in an enterprise
37 zone.

38 (iii) Is hired by the taxpayer after the date of original
39 designation of the area in which services were performed
40 as an enterprise zone.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:

Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

1 Was self-employed (including farmers and ranchers)
2 and is unemployed as a result of general economic
3 conditions in the community in which he or she resides
4 or because of natural disasters.

5 Was a civilian employee of the Department of Defense
6 employed at a military installation being closed or
7 realigned under the Defense Base Closure and
8 Realignment Act of 1990.

9 Was an active member of the armed forces or National
10 Guard as of September 30, 1990, and was either
11 involuntarily separated or separated pursuant to a special
12 benefits program.

13 Is a seasonal or migrant worker who experiences
14 chronic seasonal unemployment and underemployment
15 in the agriculture industry, aggravated by continual
16 advancements in technology and mechanization.

17 Has been terminated or laid off, or has received a notice
18 of termination or layoff, as a consequence of compliance
19 with the Clean Air Act.

20 (V) Immediately preceding the qualified employee's
21 commencement of employment with the taxpayer, was
22 a disabled individual who is eligible for or enrolled in, or
23 has completed a state rehabilitation plan or is a
24 service-connected disabled veteran, veteran of the
25 Vietnam era, or veteran who is recently separated from
26 military service.

27 (VI) Immediately preceding the qualified employee's
28 commencement of employment with the taxpayer, was
29 an ex-offender. An individual shall be treated as
30 convicted if he or she was placed on probation by a state
31 court without a finding of guilt.

32 (VII) Immediately preceding the qualified
33 employee's commencement of employment with the
34 taxpayer, was a person eligible for or a recipient of any of
35 the following:

36 Federal Supplemental Security Income benefits.

37 Aid to Families with Dependent Children.

38 Food stamps.

39 State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area (as defined in Section 7072 of the Government Code).

(X) An employee who qualified the taxpayer for the enterprise zone hiring credit under former Section 23622 or the program area hiring credit under former Section 23623.

(XI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) "Taxpayer" means a bank or corporation engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from either the Employment Development Department, as permitted by federal law, or the local county or city Job Training Partnership Act administrative entity or the local county GAIN office or social services agency, as appropriate, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The

1 Employment Development Department may provide
2 preliminary screening and referral to a certifying agency.
3 The Employment Development Department shall
4 develop a form for this purpose.

5 (2) Retain a copy of the certification and provide it
6 upon request to the Franchise Tax Board.

7 (d) (1) For purposes of this section:

8 (A) All employees of all corporations which are
9 members of the same controlled group of corporations
10 shall be treated as employed by a single taxpayer.

11 (B) The credit, if any, allowable by this section to each
12 member shall be determined by reference to its
13 proportionate share of the expense of the qualified wages
14 giving rise to the credit, and shall be allocated in that
15 manner.

16 (C) For purposes of this subdivision, “controlled group
17 of corporations” means “controlled group of
18 corporations” as defined in Section 1563(a) of the
19 Internal Revenue Code, except that:

20 (i) “More than 50 percent” shall be substituted for “at
21 least 80 percent” each place it appears in Section
22 1563(a)(1) of the Internal Revenue Code.

23 (ii) The determination shall be made without regard
24 to subsections (a)(4) and (e)(3)(C) of Section 1563 of the
25 Internal Revenue Code.

26 (2) If an employer acquires the major portion of a
27 trade or business of another employer (hereinafter in this
28 paragraph referred to as the “predecessor”) or the major
29 portion of a separate unit of a trade or business of a
30 predecessor, then, for purposes of applying this section
31 (other than subdivision (e)) for any calendar year ending
32 after that acquisition, the employment relationship
33 between a qualified employee and an employer shall not
34 be treated as terminated if the employee continues to be
35 employed in that trade or business.

36 (e) (1) (A) If the employment, other than seasonal
37 employment, of any qualified employee with respect to
38 whom qualified wages are taken into account under
39 subdivision (a) is terminated by the taxpayer at any time
40 during the first 270 days of that employment, whether or

1 not consecutive, or before the close of the 270th calendar
2 day after the day in which that employee completes 90
3 days of employment with the taxpayer, the tax imposed
4 by this part for the income year in which that
5 employment is terminated shall be increased by an
6 amount equal to the credit allowed under subdivision (a)
7 for that income year and all prior income years
8 attributable to qualified wages paid or incurred with
9 respect to that employee.

10 (B) If the seasonal employment of any qualified
11 employee, with respect to whom qualified wages are
12 taken into account under subdivision (a) is not continued
13 by the taxpayer for a period of 270 days of employment
14 during the 60-month period beginning with the day the
15 qualified employee commences seasonal employment
16 with the taxpayer, the tax imposed by this part, for the
17 income year that includes the 60th month following the
18 month in which the qualified employee commences
19 seasonal employment with the taxpayer, shall be
20 increased by an amount equal to the credit allowed under
21 subdivision (a) for that income year and all prior income
22 years attributable to qualified wages paid or incurred
23 with respect to that qualified employee.

24 (2) (A) Subparagraph (A) of paragraph (1) shall not
25 apply to any of the following:

26 (i) A termination of employment of a qualified
27 employee who voluntarily leaves the employment of the
28 taxpayer.

29 (ii) A termination of employment of a qualified
30 employee who, before the close of the period referred to
31 in subparagraph (A) of paragraph (1), becomes disabled
32 and unable to perform the services of that employment,
33 unless that disability is removed before the close of that
34 period and the taxpayer fails to offer reemployment to
35 that employee.

36 (iii) A termination of employment of a qualified
37 employee, if it is determined that the termination was
38 due to the misconduct (as defined in Sections 1256-30 to
39 1256-43, inclusive, of Title 22 of the California Code of
40 Regulations) of that employee.

1 (iv) A termination of employment of a qualified
2 employee due to a substantial reduction in the trade or
3 business operations of the taxpayer.

4 (v) A termination of employment of a qualified
5 employee, if that employee is replaced by other qualified
6 employees so as to create a net increase in both the
7 number of employees and the hours of employment.

8 (B) Subparagraph (B) of paragraph (1) shall not apply
9 to any of the following:

10 (i) A failure to continue the seasonal employment of
11 a qualified employee who voluntarily fails to return to the
12 seasonal employment of the taxpayer.

13 (ii) A failure to continue the seasonal employment of
14 a qualified employee who, before the close of the period
15 referred to in subparagraph (B) of paragraph (1),
16 becomes disabled and unable to perform the services of
17 that seasonal employment, unless that disability is
18 removed before the close of that period and the taxpayer
19 fails to offer seasonal employment to that qualified
20 employee.

21 (iii) A failure to continue the seasonal employment of
22 a qualified employee, if it is determined that the failure
23 to continue the seasonal employment was due to the
24 misconduct (as defined in Sections 1256-30 to 1256-43,
25 inclusive, of Title 22 of the California Code of
26 Regulations) of that qualified employee.

27 (iv) A failure to continue seasonal employment of a
28 qualified employee due to a substantial reduction in the
29 regular seasonal trade or business operations of the
30 taxpayer.

31 (v) A failure to continue the seasonal employment of
32 a qualified employee, if that qualified employee is
33 replaced by other qualified employees so as to create a
34 net increase in both the number of seasonal employees
35 and the hours of seasonal employment.

36 (C) For purposes of paragraph (1), the employment
37 relationship between the taxpayer and a qualified
38 employee shall not be treated as terminated by either of
39 the following:

1 (i) By a transaction to which Section 381(a) of the
2 Internal Revenue Code applies, if the qualified employee
3 continues to be employed by the acquiring corporation.

4 (ii) By reason of a mere change in the form of
5 conducting the trade or business of the taxpayer, if the
6 qualified employee continues to be employed in that
7 trade or business and the taxpayer retains a substantial
8 interest in that trade or business.

9 (3) Any increase in tax under paragraph (1) shall not
10 be treated as tax imposed by this part for purposes of
11 determining the amount of any credit allowable under
12 this part.

13 (f) Rules similar to the rules provided in Section 46(e)
14 and (h) of the Internal Revenue Code shall apply to both
15 of the following:

16 (1) An organization to which Section 593 of the
17 Internal Revenue Code applies:

18 (2) A regulated investment company or a real estate
19 investment trust subject to taxation under this part.

20 (g) For purposes of this section, “enterprise zone”
21 means an area designated as an enterprise zone pursuant
22 to Chapter 12.8 (commencing with Section 7070) of
23 Division 7 of Title 1 of the Government Code.

24 (h) The credit allowable under this section shall be
25 reduced by the credit allowed under Sections 23623.5,
26 23625, and 23646 claimed for the same employee. The
27 credit shall also be reduced by the federal credit allowed
28 under Section 51 of the Internal Revenue Code.

29 In addition, any deduction otherwise allowed under
30 this part for the wages or salaries paid or incurred by the
31 taxpayer upon which the credit is based shall be reduced
32 by the amount of the credit, prior to any reduction
33 required by subdivision (i) or (j).

34 (i) In the case where the credit otherwise allowed
35 under this section exceeds the “tax” for the income year,
36 that portion of the credit that exceeds the “tax” may be
37 carried over and added to the credit, if any, in succeeding
38 income years, until the credit is exhausted. The credit
39 shall be applied first to the earliest income years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23612.2, including any credit carryover from prior years, that may reduce the “tax” for the income year shall not exceed the amount of tax which would be imposed on the taxpayer’s business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) The amount of attributable income described in paragraph (1) shall be determined in accordance with the provisions of Chapter 17 (commencing with Section 25101), modified for purposes of this section by substituting “the enterprise zone” for “this state.”

(3) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding income years, as if it were an amount exceeding the “tax” for the income year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to income years beginning on or after January 1, 1997.

SEC. 12. Section 23622.8 of the Revenue and Taxation Code is amended to read:

23622.8. (a) For each income year beginning on or after January 1, 1998, there shall be allowed a credit against the “tax” (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual during the income year for employment in the Manufacturing Enhancement Area. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) “Qualified wages” means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the income year to qualified disadvantaged individuals that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars (\$2,000,000) per income year.

(C) Wages received during the 60-month period beginning with the first day the qualified disadvantaged individual commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the Manufacturing Enhancement Area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the Manufacturing Enhancement Area within the 60-month period prior to the Manufacturing Enhancement Area expiration date shall continue to qualify for the credit under this section after the Manufacturing Enhancement Area expiration date, in accordance with all provisions of this section applied as if the Manufacturing Enhancement Area designation were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Manufacturing Enhancement Area” means an area designated pursuant to Section 7073.8 of the Government Code according to the procedures of Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(4) “Manufacturing Enhancement Area expiration date” means the date the Manufacturing Enhancement Area designation expires, is no longer binding, or becomes inoperative.

(5) “Qualified disadvantaged individual” means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the qualified taxpayer during the income year are directly related to the conduct of the qualified taxpayer’s trade or business located in a Manufacturing Enhancement Area.

(ii) Who performs at least 50 percent of his or her services for the qualified taxpayer during the income year in the Manufacturing Enhancement Area.

(B) Who is hired by the qualified taxpayer after the designation of the area as a Manufacturing Enhancement Area in which the individual’s services were primarily performed.

(C) Who is any of the following immediately preceding the individual’s commencement of employment with the qualified taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.).

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 as provided pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any individual who has been certified eligible by the Employment Development Department under the federal Targeted Jobs Tax Credit Program, whether or not this program is in effect.

(6) “Qualified taxpayer” means any corporation engaged in a trade or business within a Manufacturing Enhancement Area designated pursuant to Section 7073.8 of the Government Code and that meets ~~both~~ *all* of the following requirements:

(A) Is engaged in those lines of business described in Codes 2011 to 3999, inclusive, of the Standard Industrial

1 Classification (SIC) Manual published by the United
2 States Office of Management and Budget, 1987 edition.

3 ~~(B) At least 30 percent of the corporation's work force~~
4 ~~hired after the designation of the Manufacturing~~
5 ~~Enhancement Area is composed of qualified~~
6 ~~disadvantaged individuals who, at the time of hire, are~~
7 ~~residents of the county in which the Manufacturing~~
8 ~~Enhancement Area is located.~~

9 *(B) At least 50 percent of the qualified taxpayer's work*
10 *force hired after the designation of the Manufacturing*
11 *Enhancement Area is composed of individuals who, at the*
12 *time of hire, are residents of the county in which the*
13 *Manufacturing Enhancement Area is located.*

14 *(C) Of this percentage of local hires, at least 30*
15 *percent shall be qualified disadvantaged individuals.*

16 (7) "Seasonal employment" means employment by a
17 qualified taxpayer that has regular and predictable
18 substantial reductions in trade or business operations.

19 (c) (1) For purposes of this section, all of the following
20 apply:

21 (A) All employees of all corporations that are
22 members of the same controlled group of corporations
23 shall be treated as employed by a single qualified
24 taxpayer.

25 (B) The credit (if any) allowable by this section with
26 respect to each member shall be determined by
27 reference to its proportionate share of the expenses of the
28 qualified wages giving rise to the credit and shall be
29 allocated in that manner.

30 (C) Principles that apply in the case of controlled
31 groups of corporations, as specified in subdivision (d) of
32 Section 23622.7, shall apply with respect to determining
33 employment.

34 (2) If a qualified taxpayer acquires the major portion
35 of a trade or business of another employer (hereinafter in
36 this paragraph referred to as the "predecessor") or the
37 major portion of a separate unit of a trade or business of
38 a predecessor, then, for purposes of applying this section
39 (other than subdivision (d)) for any calendar year ending
40 after that acquisition, the employment relationship

1 between a qualified disadvantaged individual and a
2 qualified taxpayer shall not be treated as terminated if the
3 qualified disadvantaged individual continues to be
4 employed in that trade or business.

5 (d) (1) (A) If the employment, other than seasonal
6 employment, of any qualified disadvantaged individual,
7 with respect to whom qualified wages are taken into
8 account under subdivision (b) is terminated by the
9 qualified taxpayer at any time during the first 270 days of
10 that employment (whether or not consecutive) or before
11 the close of the 270th calendar day after the day in which
12 that qualified disadvantaged individual completes 90 days
13 of employment with the qualified taxpayer, the tax
14 imposed by this part for the income year in which that
15 employment is terminated shall be increased by an
16 amount equal to the credit allowed under subdivision (a)
17 for that income year and all prior income years
18 attributable to qualified wages paid or incurred with
19 respect to that qualified disadvantaged individual.

20 (B) If the seasonal employment of any qualified
21 disadvantaged individual, with respect to whom qualified
22 wages are taken into account under subdivision (a) is not
23 continued by the qualified taxpayer for a period of 270
24 days of employment during the 60-month period
25 beginning with the day the qualified disadvantaged
26 individual commences seasonal employment with the
27 qualified taxpayer, the tax imposed by this part, for the
28 income year that includes the 60th month following the
29 month in which the qualified disadvantaged individual
30 commences seasonal employment with the qualified
31 taxpayer, shall be increased by an amount equal to the
32 credit allowed under subdivision (a) for that income year
33 and all prior income years attributable to qualified wages
34 paid or incurred with respect to that qualified
35 disadvantaged individual.

36 (2) (A) Subparagraph (A) of paragraph (1) does not
37 apply to any of the following:

38 (i) A termination of employment of a qualified
39 disadvantaged individual who voluntarily leaves the
40 employment of the qualified taxpayer.

(ii) A termination of employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of a qualified disadvantaged individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A termination of employment of a qualified disadvantaged individual due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of a qualified disadvantaged individual, if that individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified disadvantaged individual.

(iii) A failure to continue the seasonal employment of a qualified disadvantaged individual, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified disadvantaged individual.

1 (iv) A failure to continue seasonal employment of a
2 qualified disadvantaged individual due to a substantial
3 reduction in the regular seasonal trade or business
4 operations of the qualified taxpayer.

5 (v) A failure to continue the seasonal employment of
6 a qualified disadvantaged individual, if that qualified
7 disadvantaged individual is replaced by other qualified
8 disadvantaged individuals so as to create a net increase in
9 both the number of seasonal employees and the hours of
10 seasonal employment.

11 (C) For purposes of paragraph (1), the employment
12 relationship between the qualified taxpayer and a
13 qualified disadvantaged individual shall not be treated as
14 terminated by either of the following:

15 (i) By a transaction to which Section 381(a) of the
16 Internal Revenue Code applies, if the qualified
17 disadvantaged individual continues to be employed by
18 the acquiring corporation.

19 (ii) By reason of a mere change in the form of
20 conducting the trade or business of the qualified
21 taxpayer, if the qualified disadvantaged individual
22 continues to be employed in that trade or business and
23 the qualified taxpayer retains a substantial interest in that
24 trade or business.

25 (3) Any increase in tax under paragraph (1) shall not
26 be treated as tax imposed by this part for purposes of
27 determining the amount of any credit allowable under
28 this part.

29 (e) The credit shall be reduced by the credit allowed
30 under Section 23621. The credit shall also be reduced by
31 the federal credit allowed under Section 51 of the Internal
32 Revenue Code.

33 In addition, any deduction otherwise allowed under
34 this part for the wages or salaries paid or incurred by the
35 qualified taxpayer upon which the credit is based shall be
36 reduced by the amount of the credit, prior to any
37 reduction required by subdivision (f) or (g).

38 (f) In the case where the credit otherwise allowed
39 under this section exceeds the “tax” for the income year,
40 that portion of the credit that exceeds the “tax” may be

1 carried over and added to the credit, if any, in succeeding
2 years, until the credit is exhausted. The credit shall be
3 applied first to the earliest income years possible.

4 (g) (1) The amount of credit otherwise allowed
5 under this section, including prior year credit carryovers,
6 that may reduce the “tax” for the income year shall not
7 exceed the amount of tax that would be imposed on the
8 qualified taxpayer’s business income attributed to a
9 Manufacturing Enhancement Area determined as if that
10 attributed income represented all of the net income of
11 the qualified taxpayer subject to tax under this part.

12 (2) The amount of attributed income described in
13 paragraph (1) shall be determined in accordance with
14 the provisions of Chapter 17 (commencing with Section
15 25101), modified for purposes of this section as follows:

16 (A) Income shall be apportioned to a Manufacturing
17 Enhancement Area by multiplying total business income
18 by a fraction, the numerator of which is the property
19 factor plus the payroll factor, and the denominator of
20 which is 2.

21 (B) “The Manufacturing Enhancement Area” shall be
22 substituted for “this state.”

23 (3) The portion of any credit remaining, if any, after
24 application of this subdivision, shall be carried over to
25 succeeding income years, as if it were an amount
26 exceeding the “tax” for the income year, as provided in
27 subdivision (g).

28 (h) If the taxpayer is allowed a credit pursuant to this
29 section for qualified wages paid or incurred, only one
30 credit shall be allowed to the taxpayer under this part
31 with respect to any wage consisting in whole or in part of
32 those qualified wages.

33 SEC. 13. Section 23634 of the Revenue and Taxation
34 Code is amended to read:

35 23634. (a) For each income year beginning on or
36 after January 1, 1998, there shall be allowed a credit
37 against the “tax” (as defined by Section 23036) to a
38 qualified taxpayer who employs a qualified employee in
39 a targeted tax area during the income year. The credit
40 shall be equal to the sum of each of the following:

1 (1) Fifty percent of qualified wages in the first year of
2 employment.

3 (2) Forty percent of qualified wages in the second year
4 of employment.

5 (3) Thirty percent of qualified wages in the third year
6 of employment.

7 (4) Twenty percent of qualified wages in the fourth
8 year of employment.

9 (5) Ten percent of qualified wages in the fifth year of
10 employment.

11 (b) For purposes of this section:

12 (1) “Qualified wages” means:

13 (A) That portion of wages paid or incurred by the
14 qualified taxpayer during the income year to qualified
15 employees that does not exceed 150 percent of the
16 minimum wage.

17 (B) Wages received during the 60-month period
18 beginning with the first day the employee commences
19 employment with the qualified taxpayer. Reemployment
20 in connection with any increase, including a regularly
21 occurring seasonal increase, in the trade or business
22 operations of the qualified taxpayer does not constitute
23 commencement of employment for purposes of this
24 section.

25 (C) Qualified wages do not include any wages paid or
26 incurred by the qualified taxpayer on or after the
27 targeted tax area expiration date. However, wages paid
28 or incurred with respect to qualified employees who are
29 employed by the qualified taxpayer within the targeted
30 tax area within the 60-month period prior to the targeted
31 tax area expiration date shall continue to qualify for the
32 credit under this section after the targeted tax area
33 expiration date, in accordance with all provisions of this
34 section applied as if the targeted tax area designation
35 were still in existence and binding.

36 (2) “Minimum wage” means the wage established by
37 the Industrial Welfare Commission as provided for in
38 Chapter 1 (commencing with Section 1171) of Part 4 of
39 Division 2 of the Labor Code.

1 (3) “Targeted tax area expiration date” means the
2 date the targeted tax area designation expires, is revoked,
3 is no longer binding, or becomes inoperative.

4 (4) (A) “Qualified employee” means an individual
5 who meets all of the following requirements:

6 (i) At least 90 percent of his or her services for the
7 qualified taxpayer during the income year are directly
8 related to the conduct of the qualified taxpayer’s trade or
9 business located in a targeted tax area.

10 (ii) Performs at least 50 percent of his or her services
11 for the qualified taxpayer during the income year in a
12 targeted tax area.

13 (iii) Is hired by the qualified taxpayer after the date of
14 original designation of the area in which services were
15 performed as a targeted tax area.

16 (iv) Is any of the following:

17 (I) Immediately preceding the qualified employee’s
18 commencement of employment with the qualified
19 taxpayer, was a person eligible for services under the
20 federal Job Training Partnership Act (29 U.S.C. Sec. 1501
21 et seq.), or its successor, who is receiving, or is eligible to
22 receive, subsidized employment, training, or services
23 funded by the federal Job Training Partnership Act, or its
24 successor.

25 (II) Immediately preceding the qualified employee’s
26 commencement of employment with the qualified
27 taxpayer, was a person eligible to be a voluntary or
28 mandatory registrant under the Greater Avenues for
29 Independence Act of 1985 (GAIN) provided for pursuant
30 to Article 3.2 (commencing with Section 11320) of
31 Chapter 2 of Part 3 of Division 9 of the Welfare and
32 Institutions Code, or its successor.

33 (III) Immediately preceding the qualified employee’s
34 commencement of employment with the qualified
35 taxpayer, was an economically disadvantaged individual
36 14 years of age or older.

37 (IV) Immediately preceding the qualified employee’s
38 commencement of employment with the qualified
39 taxpayer, was a dislocated worker who meets any of the
40 following:

1 (aa) Has been terminated or laid off or who has
2 received a notice of termination or layoff from
3 employment, is eligible for or has exhausted entitlement
4 to unemployment insurance benefits, and is unlikely to
5 return to his or her previous industry or occupation.

6 (bb) Has been terminated or has received a notice of
7 termination of employment as a result of any permanent
8 closure or any substantial layoff at a plant, facility, or
9 enterprise, including an individual who has not received
10 written notification but whose employer has made a
11 public announcement of the closure or layoff.

12 (cc) Is long-term unemployed and has limited
13 opportunities for employment or reemployment in the
14 same or a similar occupation in the area in which the
15 individual resides, including an individual 55 years of age
16 or older who may have substantial barriers to
17 employment by reason of age.

18 (dd) Was self-employed (including farmers and
19 ranchers) and is unemployed as a result of general
20 economic conditions in the community in which he or she
21 resides or because of natural disasters.

22 (ee) Was a civilian employee of the Department of
23 Defense employed at a military installation being closed
24 or realigned under the Defense Base Closure and
25 Realignment Act of 1990.

26 (ff) Was an active member of the armed forces or
27 National Guard as of September 30, 1990, and was either
28 involuntarily separated or separated pursuant to a special
29 benefits program.

30 (gg) Is a seasonal or migrant worker who experiences
31 chronic seasonal unemployment and underemployment
32 in the agriculture industry, aggravated by continual
33 advancements in technology and mechanization.

34 (hh) Has been terminated or laid off, or has received
35 a notice of termination or layoff, as a consequence of
36 compliance with the Clean Air Act.

37 (V) Immediately preceding the qualified employee's
38 commencement of employment with the qualified
39 taxpayer, was a disabled individual who is eligible for or
40 enrolled in, or has completed a state rehabilitation plan

1 or is a service-connected disabled veteran, veteran of the
2 Vietnam era, or veteran who is recently separated from
3 military service.

4 (VI) Immediately preceding the qualified employee's
5 commencement of employment with the qualified
6 taxpayer, was an ex-offender. An individual shall be
7 treated as convicted if he or she was placed on probation
8 by a state court without a finding of guilty.

9 (VII) Immediately preceding the qualified
10 employee's commencement of employment with the
11 qualified taxpayer, was a person eligible for or a recipient
12 of any of the following:

13 (aa) Federal Supplemental Security Income benefits.

14 (bb) Aid to Families with Dependent Children.

15 (cc) Food stamps.

16 (dd) State and local general assistance.

17 (VIII) Immediately preceding the qualified
18 employee's commencement of employment with the
19 qualified taxpayer, was a member of a federally
20 recognized Indian tribe, band, or other group of Native
21 American descent.

22 (IX) Immediately preceding the qualified employee's
23 commencement of employment with the qualified
24 taxpayer, was a resident of a targeted tax area.

25 (B) Priority for employment shall be provided to an
26 individual who is enrolled in a qualified program under
27 the federal Job Training Partnership Act or the Greater
28 Avenues for Independence Act of 1985 or who is eligible
29 under the federal Targeted Jobs Tax Credit Program.

30 (5) (A) "Qualified taxpayer" means a person or entity
31 that meets both of the following:

32 (i) Is engaged in a trade or business within a targeted
33 tax area designated pursuant to Chapter 12.93
34 (commencing with Section 7097) of Division 7 of Title 1
35 of the Government Code.

36 (ii) Is engaged in those lines of business described in
37 Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200
38 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199,
39 inclusive, of the Standard Industrial Classification (SIC)

1 Manual published by the United States Office of
2 Management and Budget, 1987 edition.

3 (B) In the case of any pass-through entity, the
4 determination of whether a taxpayer is a qualified
5 taxpayer under this section shall be made at the entity
6 level and any credit under this section or Section 17053.34
7 shall be allowed to the pass-through entity and passed
8 through to the partners or shareholders in accordance
9 with applicable provisions of this part or Part 10
10 (commencing with Section 17001). For purposes of this
11 subparagraph, the term “pass-through entity” means any
12 partnership or S corporation.

13 (6) “Seasonal employment” means employment by a
14 qualified taxpayer that has regular and predictable
15 substantial reductions in trade or business operations.

16 (c) If the qualified taxpayer is allowed a credit for
17 qualified wages pursuant to this section, only one credit
18 shall be allowed to the taxpayer under this part with
19 respect to those qualified wages.

20 (d) The qualified taxpayer shall do both of the
21 following:

22 (1) Obtain from either the Employment
23 Development Department, as permitted by federal law,
24 or the local county or city Job Training Partnership Act
25 administrative entity or the local county GAIN office or
26 social services agency, as appropriate, a certification that
27 provides that a qualified employee meets the eligibility
28 requirements specified in clause (iv) of subparagraph
29 (A) of paragraph (4) of subdivision (b). The
30 Employment Development Department may provide
31 preliminary screening and referral to a certifying agency.
32 The Employment Development Department shall
33 develop a form for this purpose.

34 (2) Retain a copy of the certification and provide it
35 upon request to the Franchise Tax Board.

36 (e) (1) For purposes of this section:

37 (A) All employees of all corporations that are
38 members of the same controlled group of corporations
39 shall be treated as employed by a single taxpayer.

1 (B) The credit, if any, allowable by this section to each
2 member shall be determined by reference to its
3 proportionate share of the expense of the qualified wages
4 giving rise to the credit, and shall be allocated in that
5 manner.

6 (C) For purposes of this subdivision, “controlled group
7 of corporations” means “controlled group of
8 corporations” as defined in Section 1563(a) of the
9 Internal Revenue Code, except that:

10 (i) “More than 50 percent” shall be substituted for “at
11 least 80 percent” each place it appears in Section
12 1563(a)(1) of the Internal Revenue Code.

13 (ii) The determination shall be made without regard
14 to subsections (a)(4) and (e)(3)(C) of Section 1563 of the
15 Internal Revenue Code.

16 (2) If an employer acquires the major portion of a
17 trade or business of another employer (hereinafter in this
18 paragraph referred to as the “predecessor”) or the major
19 portion of a separate unit of a trade or business of a
20 predecessor, then, for purposes of applying this section
21 (other than subdivision (f)) for any calendar year ending
22 after that acquisition, the employment relationship
23 between a qualified employee and an employer shall not
24 be treated as terminated if the employee continues to be
25 employed in that trade or business.

26 (f) (1) (A) If the employment, other than seasonal
27 employment, of any qualified employee with respect to
28 whom qualified wages are taken into account under
29 subdivision (a) is terminated by the qualified taxpayer at
30 any time during the first 270 days of that employment
31 (whether or not consecutive) or before the close of the
32 270th calendar day after the day in which that employee
33 completes 90 days of employment with the qualified
34 taxpayer, the tax imposed by this part for the income year
35 in which that employment is terminated shall be
36 increased by an amount equal to the credit allowed under
37 subdivision (a) for that income year and all prior income
38 years attributable to qualified wages paid or incurred
39 with respect to that employee.

1 (B) If the seasonal employment of any qualified
2 employee, with respect to whom qualified wages are
3 taken into account under subdivision (a) is not continued
4 by the qualified taxpayer for a period of 270 days of
5 employment during the 60-month period beginning with
6 the day the qualified employee commences seasonal
7 employment with the qualified taxpayer, the tax imposed
8 by this part, for the income year that includes the 60th
9 month following the month in which the qualified
10 employee commences seasonal employment with the
11 qualified taxpayer, shall be increased by an amount equal
12 to the credit allowed under subdivision (a) for that
13 income year and all prior income years attributable to
14 qualified wages paid or incurred with respect to that
15 qualified employee.

16 (2) (A) Subparagraph (A) of paragraph (1) shall not
17 apply to any of the following:

18 (i) A termination of employment of a qualified
19 employee who voluntarily leaves the employment of the
20 qualified taxpayer.

21 (ii) A termination of employment of a qualified
22 employee who, before the close of the period referred to
23 in subparagraph (A) of paragraph (1), becomes disabled
24 and unable to perform the services of that employment,
25 unless that disability is removed before the close of that
26 period and the qualified taxpayer fails to offer
27 reemployment to that employee.

28 (iii) A termination of employment of a qualified
29 employee, if it is determined that the termination was
30 due to the misconduct (as defined in Sections 1256-30 to
31 1256-43, inclusive, of Title 22 of the California Code of
32 Regulations) of that employee.

33 (iv) A termination of employment of a qualified
34 employee due to a substantial reduction in the trade or
35 business operations of the taxpayer.

36 (v) A termination of employment of a qualified
37 employee, if that employee is replaced by other qualified
38 employees so as to create a net increase in both the
39 number of employees and the hours of employment.



(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified employee shall not be treated as terminated by either of the following:

(i) By a transaction to which Section 381(a) of the Internal Revenue Code applies, if the qualified employee continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified employee continues to be employed in that trade or business and the qualified

1 taxpayer retains a substantial interest in that trade or
2 business.

3 (3) Any increase in tax under paragraph (1) shall not
4 be treated as tax imposed by this part for purposes of
5 determining the amount of any credit allowable under
6 this part.

7 (g) Rules similar to the rules provided in Sections
8 46(e) and (h) of the Internal Revenue Code shall apply
9 to both of the following:

10 (1) An organization to which Section 593 of the
11 Internal Revenue Code applies.

12 (2) A regulated investment company or a real estate
13 investment trust subject to taxation under this part.

14 (h) For purposes of this section, “targeted tax area”
15 means an area designated pursuant to Chapter 12.93
16 (commencing with Section 7097) of Division 7 of Title 1
17 of the Government Code.

18 (i) In the case where the credit otherwise allowed
19 under this section exceeds the “tax” for the income year,
20 that portion of the credit that exceeds the “tax” may be
21 carried over and added to the credit, if any, in succeeding
22 income years, until the credit is exhausted. The credit
23 shall be applied first to the earliest income years possible.

24 (j) (1) The amount of the credit otherwise allowed
25 under this section and Section 23633, including any credit
26 carryover from prior years, that may reduce the “tax” for
27 the income year shall not exceed the amount of tax that
28 would be imposed on the qualified taxpayer’s business
29 income attributable to the targeted tax area determined
30 as if that attributable income represented all of the
31 income of the qualified taxpayer subject to tax under this
32 part.

33 (2) The amount of attributable income described in
34 paragraph (1) shall be determined in accordance with
35 Chapter 17 (commencing with Section 25101), modified
36 for purposes of this section as follows:

37 (A) Business income shall be apportioned to the
38 targeted tax area by multiplying the total business income
39 by a fraction, the numerator of which is the property

1 factor plus the payroll factor, and the denominator of
2 which is 2.

3 (B) “The targeted tax area” shall be substituted for
4 “this state.”

5 (3) The portion of any credit remaining, if any, after
6 application of this subdivision, shall be carried over to
7 succeeding income years, as if it were an amount
8 exceeding the “tax” for the income year, as provided in
9 subdivision (h).

10 (4) In the event that a credit carryover is allowable
11 under subdivision (h) for any income year after the
12 targeted tax area designation has expired or been
13 revoked, the targeted tax area shall be deemed to remain
14 in existence for purposes of computing the limitation
15 specified in this subdivision.

16 SEC. 14. Section 23646 of the Revenue and Taxation
17 Code is amended to read:

18 23646. (a) For each income year beginning on or
19 after January 1, 1995, and before January 1, 2003, there
20 shall be allowed as a credit against the “tax” (as defined
21 in Section 23036) to a qualified taxpayer for hiring a
22 qualified disadvantaged individual or a qualified
23 displaced employee during the income year for
24 employment in the LAMBRA. The credit shall be equal
25 to the sum of each of the following:

26 (1) Fifty percent of the qualified wages in the first year
27 of employment.

28 (2) Forty percent of the qualified wages in the second
29 year of employment.

30 (3) Thirty percent of the qualified wages in the third
31 year of employment.

32 (4) Twenty percent of the qualified wages in the
33 fourth year of employment.

34 (5) Ten percent of the qualified wages in the fifth year
35 of employment.

36 (b) For purposes of this section:

37 (1) “Qualified wages” means:

38 (A) That portion of wages paid or incurred by the
39 employer during the income year to qualified
40 disadvantaged individuals or qualified displaced

1 employees that does not exceed 150 percent of the
2 minimum wage.

3 (B) The total amount of qualified wages which may be
4 taken into account for purposes of claiming the credit
5 allowed under this section shall not exceed two million
6 dollars (\$2,000,000) per income year.

7 (C) Wages received during the 60-month period
8 beginning with the first day the individual commences
9 employment with the taxpayer. Reemployment in
10 connection with any increase, including a regularly
11 occurring seasonal increase, in the trade or business
12 operation of the qualified taxpayer does not constitute
13 commencement of employment for purposes of this
14 section.

15 (2) “Minimum wage” means the wage established by
16 the Industrial Welfare Commission as provided for in
17 Chapter 1 (commencing with Section 1171) of Part 4 of
18 Division 2 of the Labor Code.

19 (3) “LAMBRA” means a local agency military base
20 recovery area designated in accordance with the
21 provisions of Section 7114 of the Government Code.

22 (4) “Qualified disadvantaged individual” means an
23 individual who satisfies all of the following requirements:

24 (A) (i) At least 90 percent of whose services for the
25 taxpayer during the income year are directly related to
26 the conduct of the taxpayer’s trade or business located in
27 a LAMBRA.

28 (ii) Who performs at least 50 percent of his or her
29 services for the taxpayer during the income year in the
30 LAMBRA.

31 (B) Who is hired by the employer after the
32 designation of the area as a LAMBRA in which the
33 individual’s services were primarily performed.

34 (C) Who is any of the following immediately
35 preceding the individual’s commencement of
36 employment with the taxpayer:

37 (i) An individual who has been determined eligible for
38 services under the federal Job Training Partnership Act
39 (29 U.S.C. Sec. 1501 et seq.).

1 (ii) Any voluntary or mandatory registrant under the
2 Greater Avenues for Independence Act of 1985 provided
3 for pursuant to Article 3.2 (commencing with Section
4 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare
5 and Institutions Code.

6 (iii) Any individual who has been certified eligible by
7 the Employment Development Department under the
8 federal Targeted Jobs Tax Credit Program whether or not
9 this program is in effect.

10 (5) "Qualified taxpayer" means a corporation that
11 conducts a trade or business within a LAMBRA and, for
12 the first two income years, has a net increase in jobs
13 (defined as 2,000 paid hours per employee per year) of
14 one or more employees as determined below in the
15 LAMBRA.

16 (A) The net increase in the number of jobs shall be
17 determined by subtracting the total number of full-time
18 employees (defined as 2,000 paid hours per employee per
19 year) the taxpayer employed in this state in the income
20 year prior to commencing business operations in the
21 LAMBRA from the total number of full-time employees
22 the taxpayer employed in this state during the second
23 income year after commencing business operations in the
24 LAMBRA. For taxpayers who commence doing business
25 in this state with their LAMBRA business operation, the
26 number of employees for the income year prior to
27 commencing business operations in the LAMBRA shall
28 be zero. If the taxpayer has a net increase in jobs in the
29 state, the credit shall be allowed only if one or more
30 full-time employees is employed within the LAMBRA.

31 (B) The total number of employees employed in the
32 LAMBRA shall equal the sum of both of the following:

33 (i) The total number of hours worked in the LAMBRA
34 for the taxpayer by employees (not to exceed 2,000 hours
35 per employee) who are paid an hourly wage divided by
36 2,000.

37 (ii) The total number of months worked in the
38 LAMBRA for the taxpayer by employees who are salaried
39 employees divided by 12.

(C) In the case of a qualified taxpayer that first commences doing business in the LAMBRA during the income year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B) the divisors “2,000” and “12” shall be multiplied by a fraction, the numerator of which is the number of months of the income year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(6) “Qualified displaced employee” means an individual who satisfies all of the following requirements:

(A) Any civilian or military employee of a base or former base that has been displaced as a result of a federal base closure act.

(B) (i) At least 90 percent of whose services for the taxpayer during the income year are directly related to the conduct of the taxpayer’s trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the income year in a LAMBRA.

(C) Who is hired by the employer after the designation of the area in which services were performed as a LAMBRA.

(7) “Seasonal employment” means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) (1) For purposes of this section, both of the following apply:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single employer.

(B) The credit (if any) allowable by this section to each member shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.

(2) For purposes of this subdivision, “controlled group of corporations” has the meaning given to that term by Section 1563(a) of the Internal Revenue Code, except that both of the following apply:

1 (A) “More than 50 percent” shall be substituted for “at
2 least 80 percent” each place it appears in Section
3 1563(a)(1) of the Internal Revenue Code.

4 (B) The determination shall be made without regard
5 to Section 1563(a)(4) and Section 1563(e)(3)(C) of the
6 Internal Revenue Code.

7 (3) If an employer acquires the major portion of a
8 trade or business of another employer (hereinafter in this
9 paragraph referred to as the “predecessor”) or the major
10 portion of a separate unit of a trade or business of a
11 predecessor, then, for purposes of applying this section
12 (other than subdivision (d)) for any calendar year ending
13 after that acquisition, the employment relationship
14 between an employee and an employer shall not be
15 treated as terminated if the employee continues to be
16 employed in that trade or business.

17 (d) (1) (A) If the employment, other than seasonal
18 employment, of any employee with respect to whom
19 qualified wages are taken into account under subdivision
20 (a) is terminated by the taxpayer at any time during the
21 first 270 days of that employment (whether or not
22 consecutive) or before the close of the 270th calendar day
23 after the day in which that employee completes 90 days
24 of employment with the taxpayer, the tax imposed by this
25 part for the income year in which that employment is
26 terminated shall be increased by an amount equal to the
27 credit allowed under subdivision (a) for that income year
28 and all prior income years attributable to qualified wages
29 paid or incurred with respect to that employee.

30 (B) If the seasonal employment of any qualified
31 disadvantaged individual, with respect to whom qualified
32 wages are taken into account under subdivision (a) is not
33 continued by the qualified taxpayer for a period of 270
34 days of employment during the 60-month period
35 beginning with the day the qualified disadvantaged
36 individual commences seasonal employment with the
37 qualified taxpayer, the tax imposed by this part, for the
38 income year that includes the 60th month following the
39 month in which the qualified disadvantaged individual
40 commences seasonal employment with the qualified

1 taxpayer, shall be increased by an amount equal to the
2 credit allowed under subdivision (a) for that income year
3 and all prior income years attributable to qualified wages
4 paid or incurred with respect to that qualified
5 disadvantaged individual.

6 (2) (A) Subparagraph (A) of paragraph (1) shall not
7 apply to any of the following:

8 (i) A termination of employment of an employee who
9 voluntarily leaves the employment of the taxpayer.

10 (ii) A termination of employment of an individual
11 who, before the close of the period referred to in
12 subparagraph (A) of paragraph (1), becomes disabled to
13 perform the services of that employment, unless that
14 disability is removed before the close of that period and
15 the taxpayer fails to offer reemployment to that
16 individual.

17 (iii) A termination of employment of an individual, if
18 it is determined that the termination was due to the
19 misconduct (as defined in Sections 1256-30 to 1256-43,
20 inclusive, of Title 22 of the California Code of
21 Regulations) of that individual.

22 (iv) A termination of employment of an individual due
23 to a substantial reduction in the trade or business
24 operations of the taxpayer.

25 (v) A termination of employment of an individual, if
26 that individual is replaced by other qualified employees
27 so as to create a net increase in both the number of
28 employees and the hours of employment.

29 (B) Subparagraph (B) of paragraph (1) shall not apply
30 to any of the following:

31 (i) A failure to continue the seasonal employment of
32 a qualified disadvantaged individual who voluntarily fails
33 to return to the seasonal employment of the qualified
34 taxpayer.

35 (ii) A failure to continue the seasonal employment of
36 a qualified disadvantaged individual who, before the
37 close of the period referred to in subparagraph (B) of
38 paragraph (1), becomes disabled and unable to perform
39 the services of that seasonal employment, unless that
40 disability is removed before the close of that period and

1 the qualified taxpayer fails to offer seasonal employment
2 to that qualified disadvantaged individual.

3 (iii) A failure to continue the seasonal employment of
4 a qualified disadvantaged individual, if it is determined
5 that the failure to continue the seasonal employment was
6 due to the misconduct (as defined in Sections 1256-30 to
7 1256-43, inclusive, of Title 22 of the California Code of
8 Regulations) of that individual.

9 (iv) A failure to continue seasonal employment of a
10 qualified disadvantaged individual due to a substantial
11 reduction in the regular seasonal trade or business
12 operations of the qualified taxpayer.

13 (v) A failure to continue the seasonal employment of
14 a qualified disadvantaged individual, if that individual is
15 replaced by other qualified disadvantaged individuals so
16 as to create a net increase in both the number of seasonal
17 employees and the hours of seasonal employment.

18 (C) For purposes of paragraph (1), the employment
19 relationship between the taxpayer and an employee shall
20 not be treated as terminated by either of the following:

21 (i) A transaction to which Section 381(a) of the
22 Internal Revenue Code applies, if the employee
23 continues to be employed by the acquiring corporation.

24 (ii) A mere change in the form of conducting the trade
25 or business of the taxpayer, if the employee continues to
26 be employed in that trade or business and the taxpayer
27 retains a substantial interest in that trade or business.

28 (3) Any increase in tax under paragraph (1) shall not
29 be treated as tax imposed by this part for purposes of
30 determining the amount of any credit allowable under
31 this part.

32 (4) At the close of the second income year, if the
33 taxpayer has not increased the number of its employees
34 as determined by paragraph (5) of subdivision (b), then
35 the amount of the credit previously claimed shall be
36 added to the taxpayer's tax for the taxpayer's second
37 income year.

38 (e) In the case of an organization to which Section 593
39 of the Internal Revenue Code applies, and a regulated
40 investment company or a real estate investment trust

1 subject to taxation under this part, rules similar to the
2 rules provided in Section 46(e) and Section 46(h) of the
3 Internal Revenue Code shall apply.

4 (f) The credit shall be reduced by the credit allowed
5 under Section 23621. The credit shall also be reduced by
6 the federal credit allowed under Section 51 of the Internal
7 Revenue Code.

8 In addition, any deduction otherwise allowed under
9 this part for the wages or salaries paid or incurred by the
10 taxpayer upon which the credit is based shall be reduced
11 by the amount of the credit, prior to any reduction
12 required by subdivision (g) or (h).

13 (g) In the case where the credit otherwise allowed
14 under this section exceeds the “tax” for the income year,
15 that portion of the credit that exceeds the “tax” may be
16 carried over and added to the credit, if any, in succeeding
17 years, until the credit is exhausted. The credit shall be
18 applied first to the earliest income years possible.

19 (h) (1) The amount of credit otherwise allowed
20 under this section and Section 23645, including any prior
21 year carryovers, that may reduce the “tax” for the income
22 year shall not exceed the amount of tax that would be
23 imposed on the taxpayer’s business income attributed to
24 a LAMBRA determined as if that attributed income
25 represented all of the income of the taxpayer subject to
26 tax under this part.

27 (2) The amount of attributed income described in
28 paragraph (1) shall be determined in accordance with
29 the provisions of Chapter 17 (commencing with Section
30 25101), modified for purposes of this section as follows:

31 (A) Income shall be apportioned to a LAMBRA by
32 multiplying total business income by a fraction, the
33 numerator of which is the property factor plus the payroll
34 factor, and the denominator of which is 2.

35 (B) “The LAMBRA” shall be substituted for “this
36 state.”

37 (3) The portion of any credit remaining, if any, after
38 application of this subdivision, shall be carried over to
39 succeeding income years, as if it were an amount

1 exceeding the “tax” for the income year, as provided in
2 subdivision (g).

3 (i) If the taxpayer is allowed a credit pursuant to this
4 section for qualified wages paid or incurred, only one
5 credit shall be allowed to the taxpayer under this part
6 with respect to any wage consisting in whole or in part of
7 those qualified wages.

8 (j) This section shall remain in effect only until
9 December 1, 2003, and as of that date is repealed.
10 However, any unused credit may continue to be carried
11 over as provided in subdivision (g), until the credit is
12 exhausted.

13 SEC. 15. Section 24416 of the Revenue and Taxation
14 Code is amended to read:

15 24416. Except as provided in Section 24416.1, 24416.2,
16 24416.4, 24416.5, or 24416.6, a net operating loss deduction
17 shall be allowed in computing net income under Section
18 24341 and shall be determined in accordance with Section
19 172 of the Internal Revenue Code, except as otherwise
20 provided.

21 (a) (1) Net operating losses attributable to income
22 years beginning before January 1, 1987, shall not be
23 allowed.

24 (2) A net operating loss shall not be carried forward to
25 any income year beginning before January 1, 1987.

26 (b) (1) Except as provided in paragraphs (2) and (3),
27 the provisions of Section 172(b)(2) of the Internal
28 Revenue Code, relating to the amount of carryovers, shall
29 be modified so that 50 percent of the entire amount of the
30 net operating loss for any income year shall not be eligible
31 for carryover to any subsequent income year.

32 (2) In the case of a taxpayer who has a net operating
33 loss in an income year beginning on or after January 1,
34 1994, and who operates a new business during that
35 income year, each of the following shall apply to each loss
36 incurred during the first three income years of operating
37 the new business:

38 (A) If the net operating loss is equal to or less than the
39 net loss from the new business, 100 percent of the net

1 operating loss shall be carried forward as provided in
2 paragraph (2) of subdivision (e).

3 (B) If the net operating loss is greater than the net loss
4 from the new business, the net operating loss shall be
5 carried over as follows:

6 (i) With respect to an amount equal to the net loss
7 from the new business, 100 percent of that amount shall
8 be carried forward as provided in paragraph (2) of
9 subdivision (e).

10 (ii) With respect to the portion of the net operating
11 loss that exceeds the net loss from the new business, 50
12 percent of that amount shall be a net operating loss
13 carryover to each of the five taxable years following the
14 taxable year of the loss.

15 (C) For purposes of Section 172(b)(2) of the Internal
16 Revenue Code, the amount described in clause (ii) of
17 subparagraph (B) shall be absorbed before the amount
18 described in clause (i) of subparagraph (B).

19 (3) In the case of a taxpayer who has a net operating
20 loss in an income year beginning on or after January 1,
21 1994, and who operates an eligible small business during
22 that income year, each of the following shall apply:

23 (A) If the net operating loss is equal to or less than the
24 net loss from the eligible small business, 100 percent of the
25 net operating loss shall be carried forward to the income
26 years specified in paragraph (1) of subdivision (e).

27 (B) If the net operating loss is greater than the net loss
28 from the eligible small business, the net operating loss
29 shall be carried over as follows:

30 (i) With respect to an amount equal to the net loss
31 from the eligible small business, 100 percent of that
32 amount shall be carried forward to each of the five
33 income years following the income year of the loss.

34 (ii) With respect to the portion of the net operating
35 loss that exceeds the net loss from the eligible small
36 business, 50 percent of that amount shall be a net
37 operating loss carryover to each of the five income years
38 following the income year of the loss.

39 (C) For purposes of Section 172(b)(2) of the Internal
40 Revenue Code, the amount described in clause (ii) of

1 subparagraph (B) shall be absorbed before the amount
2 described in clause (i) of subparagraph (B).

3 (4) In the case of a taxpayer who has a net operating
4 loss in an income year beginning on or after January 1,
5 1994, and who operates a business that qualifies as both a
6 new business and an eligible small business under this
7 section, that business shall be treated as a new business for
8 the first three income years of the new business.

9 (5) In the case of a taxpayer who has a net operating
10 loss in an income year beginning on or after January 1,
11 1994, and who operates more than one business, and more
12 than one of those businesses qualifies as either a new
13 business or an eligible small business under this section,
14 paragraph (2) shall be applied first, except that if there
15 is any remaining portion of the net operating loss after
16 application of clause (i) of subparagraph (B) of
17 paragraph (2), paragraph (3) shall be applied to the
18 remaining portion of the net operating loss as though that
19 remaining portion of the net operating loss constituted
20 the entire net operating loss.

21 (6) For purposes of this section, “net loss” means the
22 amount of net loss after application of Sections 465 and
23 469 of the Internal Revenue Code.

24 (c) For any income year in which the taxpayer has in
25 effect a water’s-edge election under Section 25110, the
26 deduction of a net operating loss carryover shall be
27 denied to the extent that the net operating loss carryover
28 was determined by taking into account the income and
29 factors of an affiliated corporation in a combined report
30 whose income and apportionment factors would not have
31 been taken into account if a water’s-edge election under
32 Section 25110 had been in effect for the income year in
33 which the loss was incurred.

34 (d) Net operating loss carrybacks shall not be allowed.

35 (e) (1) Except as provided in paragraphs (2), (3), and
36 (4), for each income year beginning on or after January
37 1, 1987, Section 172(b)(1)(A)(ii) of the Internal Revenue
38 Code, relating to years to which net operating losses may
39 be carried, is modified to substitute “five income years”
40 in lieu of “15 taxable years.”

(2) In the case of a “new business,” the “five income years” referred to in paragraph (1) shall be modified to read as follows:

(A) “Eight income years” for a net operating loss attributable to the first income year of that new business.

(B) “Seven income years” for a net operating loss attributable to the second income year of that new business.

(C) “Six income years” for a net operating loss attributable to the third income year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 24416.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to income years beginning in 1991.

(B) By two years for a net operating loss attributable to income years beginning prior to January 1, 1991.

(4) The net operating loss attributable to income years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 income years following the year of the loss if it is incurred by a corporation that was either of the following:

(A) Under the jurisdiction of the court in a Title 11 or similar case at any time prior to January 1, 1994. The loss carryover provided in the preceding sentence shall not apply to any loss incurred in an income year after the income year during which the corporation is no longer under the jurisdiction of the court in a Title 11 or similar case.

(B) In receipt of assets acquired in a transaction that qualifies as a tax-free reorganization under Section 368(a)(1)(G) of the Internal Revenue Code.

(f) For purposes of this section:

(1) “Eligible small business” means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars (\$1,000,000) during the income year.

1 (2) Except as provided in subdivision (g), “new
2 business” means any trade or business activity that is first
3 commenced in this state on or after January 1, 1994.

4 (3) “Title 11 or similar case” shall have the same
5 meaning as in Section 368(a)(3) of the Internal Revenue
6 Code.

7 (4) In the case of any trade or business activity
8 conducted by a partnership or an S corporation,
9 paragraphs (1) and (2) shall be applied to the partnership
10 or S corporation.

11 (g) For purposes of this section, in determining
12 whether a trade or business activity qualifies as a new
13 business under paragraph (2) of subdivision (e), the
14 following rules shall apply:

15 (1) In any case where a taxpayer purchases or
16 otherwise acquires all or any portion of the assets of an
17 existing trade or business (irrespective of the form of
18 entity) that is doing business in this state (within the
19 meaning of Section 23101), the trade or business
20 thereafter conducted by the taxpayer (or any related
21 person) shall not be treated as a new business if the
22 aggregate fair market value of the acquired assets
23 (including real, personal, tangible, and intangible
24 property) used by the taxpayer (or any related person)
25 in the conduct of its trade or business exceeds 20 percent
26 of the aggregate fair market value of the total assets of the
27 trade or business being conducted by the taxpayer (or
28 any related person). For purposes of this paragraph only,
29 the following rules shall apply:

30 (A) The determination of the relative fair market
31 values of the acquired assets and the total assets shall be
32 made as of the last day of the first income year in which
33 the taxpayer (or any related person) first uses any of the
34 acquired trade or business assets in its business activity.

35 (B) Any acquired assets that constituted property
36 described in Section 1221(1) of the Internal Revenue
37 Code in the hands of the transferor shall not be treated as
38 assets acquired from an existing trade or business, unless
39 those assets also constitute property described in Section

1 1221(1) of the Internal Revenue Code in the hands of the
2 acquiring taxpayer (or related person).

3 (2) In any case where a taxpayer (or any related
4 person) is engaged in one or more trade or business
5 activities in this state, or has been engaged in one or more
6 trade or business activities in this state within the
7 preceding 36 months (“prior trade or business activity”),
8 and thereafter commences an additional trade or
9 business activity in this state, the additional trade or
10 business activity shall only be treated as a new business if
11 the additional trade or business activity is classified under
12 a different division of the Standard Industrial
13 Classification (SIC) Manual published by the United
14 States Office of Management and Budget, 1987 edition,
15 than are any of the taxpayer’s (or any related person’s)
16 current or prior trade or business activities.

17 (3) In any case where a taxpayer, including all related
18 persons, is engaged in trade or business activities wholly
19 outside of this state and the taxpayer first commences
20 doing business in this state (within the meaning of Section
21 23101) after December 31, 1993 (other than by purchase
22 or other acquisition described in paragraph (1)), the
23 trade or business activity shall be treated as a new
24 business under paragraph (2) of subdivision (e).

25 (4) In any case where the legal form under which a
26 trade or business activity is being conducted is changed,
27 the change in form shall be disregarded and the
28 determination of whether the trade or business activity
29 is a new business shall be made by treating the taxpayer
30 as having purchased or otherwise acquired all or any
31 portion of the assets of an existing trade or business under
32 the rules of paragraph (1) of this subdivision.

33 (5) “Related person” shall mean any person that is
34 related to the taxpayer under either Section 267 or 318 of
35 the Internal Revenue Code.

36 (6) “Acquire” shall include any transfer, whether or
37 not for consideration.

38 (7) (A) For income years beginning on or after
39 January 1, 1997, the term “new business” shall include any
40 taxpayer that is engaged in biopharmaceutical activities

1 or other biotechnology activities that are described in
2 Codes 2833 to 2836, inclusive, of the Standard Industrial
3 Classification (SIC) Manual published by the United
4 States Office of Management and Budget, 1987 edition,
5 and as further amended, and that has not received
6 regulatory approval for any product from the United
7 States Food and Drug Administration.

8 (B) For purposes of this paragraph:

9 (i) “Biopharmaceutical activities” means those
10 activities which use organisms or materials derived from
11 organisms, and their cellular, subcellular, or molecular
12 components, in order to provide pharmaceutical
13 products for human or animal therapeutics and
14 diagnostics. Biopharmaceutical activities make use of
15 living organisms to make commercial products, as
16 opposed to pharmaceutical activities which make use of
17 chemical compounds to produce commercial products.

18 (ii) “Other biotechnology activities” means activities
19 consisting of the application of recombinant DNA
20 technology to produce commercial products, as well as
21 activities regarding pharmaceutical delivery systems
22 designed to provide a measure of control over the rate,
23 duration, and site of pharmaceutical delivery.

24 (h) For purposes of corporations whose net income is
25 determined under Chapter 17 (commencing with
26 Section 25101), Section 25108 shall apply to each of the
27 following:

28 (1) The amount of net operating loss incurred in any
29 income year which may be carried forward to another
30 income year.

31 (2) The amount of any loss carry forward which may
32 be deducted in any income year.

33 (i) The provisions of Section 172(b)(1)(K) of the
34 Internal Revenue Code, relating to bad debt losses of
35 commercial banks, shall not be applicable.

36 (j) The Franchise Tax Board may prescribe
37 appropriate regulations to carry out the purposes of this
38 section, including any regulations necessary to prevent
39 the avoidance of the purposes of this section through

1 splitups, shell corporations, partnerships, tiered
2 ownership structures, or otherwise.

3 (k) The Franchise Tax Board may reclassify any net
4 operating loss carryover determined under either
5 paragraph (2) or (3) of subdivision (b) as a net operating
6 loss carryover under paragraph (1) of subdivision (b)
7 upon a showing that the reclassification is necessary to
8 prevent evasion of the purposes of this section.

9 (l) The amendments made by the act adding this
10 subdivision shall be operative for income years beginning
11 on or after January 1, 1997.

12 SEC. 16. Section 24416.1 of the Revenue and Taxation
13 Code is amended to read:

14 24416.1. (a) A qualified taxpayer, as defined in
15 Section 24416.2, 24416.4, 24416.5, or 24416.6, may elect to
16 take the deduction provided by Section 172 of the
17 Internal Revenue Code, relating to the net operating loss
18 deduction, as modified by Section 24416, in computing
19 net income under Section 24341, with the following
20 exceptions to Section 24416:

21 (1) Subdivision (a) of Section 24416, relating to years
22 in which allowable losses are sustained, shall not be
23 applicable.

24 (2) Subdivision (b) of Section 24416, relating to the
25 50-percent reduction of losses, shall not be applicable.

26 (3) The provisions of subparagraphs (B) and (C) of
27 Section 172 (b) (1) of the Internal Revenue Code shall
28 not apply. To the extent applicable to California law, net
29 operating losses attributable to entities with losses
30 described by Section 172(b)(1)(J) shall be applied in
31 accordance with Section 172(b)(1)(A) and (B) of the
32 Internal Revenue Code.

33 (b) Corporations whose income is subject to the
34 provisions of Section 25101 or 25101.15 shall make the
35 computations required by Section 25108.

36 (c) The election to compute the net operating loss
37 under this section shall be made in a statement attached
38 to the original return, timely filed for the year in which
39 the net operating loss is incurred and shall be irrevocable.
40 In addition to the exceptions specified in subdivision (a),

1 Section 24416.2, 24416.4, 24416.5, or 24416.6, as
2 appropriate, shall be applicable.

3 (d) Any carryover of a net operating loss sustained by
4 a qualified taxpayer, as defined in subdivision (a) or (b)
5 of Section 24416.2 as that section read immediately prior
6 to January 1, 1997, shall, if previously elected, continue to
7 be a deduction, as provided in subdivision (a), applied as
8 if the provisions of subdivision (a) or (b) of Section
9 24416.2, as that section read prior to January 1, 1997, still
10 applied.

11 SEC. 17. Section 24416.2 of the Revenue and Taxation
12 Code is amended to read:

13 24416.2. (a) The term “qualified taxpayer” as used in
14 Section 24416.1 includes a corporation engaged in the
15 conduct of a trade or business within an enterprise zone
16 designated pursuant to Chapter 12.8 (commencing with
17 Section 7070) of Division 7 of Title 1 of the Government
18 Code. For purposes of this subdivision, all of the following
19 shall apply:

20 (1) A net operating loss shall not be a net operating loss
21 carryback for any income year and a net operating loss for
22 any income year beginning on or after the date that the
23 area in which the taxpayer conducts a trade or business
24 is designated as an enterprise zone shall be a net
25 operating loss carryover to each of the 15 income years
26 following the income year of loss.

27 (2) For purposes of this subdivision:

28 (A) “Net operating loss” means the loss determined
29 under Section 172 of the Internal Revenue Code, as
30 modified by Section 24416.1, attributable to the taxpayer’s
31 business activities within the enterprise zone (as defined
32 in Chapter 12.8 (commencing with Section 7070) of
33 Division 7 of Title 1 of the Government Code) prior to the
34 enterprise zone expiration date. That attributable loss
35 shall be determined in accordance with Chapter 17
36 (commencing with Section 25101), modified for purposes
37 of this section by substituting “enterprise zone” for “this
38 state.”

39 (B) A net operating loss carryover shall be a deduction
40 only with respect to the taxpayer’s business income

1 attributable to the enterprise zone (as defined in Chapter
2 12.8 (commencing with Section 7070) of Division 7 of
3 Title 1 of the Government Code) determined in
4 accordance with Chapter 17 (commencing with Section
5 25101), modified for purposes of this section by
6 substituting “enterprise zone” for “this state.”

7 (C) If a loss carryover is allowable pursuant to this
8 section for any income year after the enterprise zone
9 designation has expired, the enterprise zone shall be
10 deemed to remain in existence for purposes of computing
11 the limitation set forth in subparagraph (B) and allowing
12 a net operating loss deduction.

13 (D) “Enterprise zone expiration date” means the date
14 the enterprise zone designation expires, is no longer
15 binding, or becomes inoperative.

16 (b) A taxpayer who qualifies as a “qualified taxpayer”
17 under one or more sections shall, for the income year of
18 the net operating loss and any income year to which that
19 net operating loss may be carried, designate on the
20 original return filed for each year the section which
21 applies to that taxpayer with respect to that net operating
22 loss. If the taxpayer is eligible to qualify under more than
23 one section, the designation is to be made after taking into
24 account subdivision (c).

25 (c) If a taxpayer is eligible to qualify under this section
26 and either Section 24416.4, 24416.5, or 24416.6 as a
27 “qualified taxpayer,” with respect to a net operating loss
28 in an income year, the taxpayer shall designate which
29 section is to apply to the taxpayer.

30 (d) Notwithstanding Section 24416, the amount of the
31 loss determined under this section shall be the only net
32 operating loss allowed to be carried over from that
33 income year and the designation under subdivision (b)
34 shall be included in the election under Section 24416.1.

35 SEC. 18. Section 24416.4 is added to the Revenue and
36 Taxation Code, to read:

37 24416.4. (a) The term “qualified taxpayer” as used in
38 Section 24416.1 includes a corporation engaged in the
39 conduct of a trade or business within the Los Angeles
40 Revitalization Zone designated pursuant to Section 7102

1 of the Government Code. For purposes of this
2 subdivision, all of the following shall apply:

3 (1) A net operating loss shall not be a net operating loss
4 carryback for any income year and, except as provided in
5 subparagraph (B), a net operating loss for any income
6 year beginning on or after the date the area in which the
7 taxpayer conducts a trade or business is designated the
8 Los Angeles Revitalization Zone shall be a net operating
9 loss carryover to each following income year that ends
10 before the Los Angeles Revitalization Zone expiration
11 date or to each of the 15 income years following the
12 income year of loss, if longer.

13 (2) In the case of a financial institution to which
14 Section 585, 586, or 593 of the Internal Revenue Code
15 applies, a net operating loss for any income year
16 beginning on or after January 1, 1984, shall be a net
17 operating loss carryover to each of the five years
18 following the income year of the loss. Subdivision (b) of
19 Section 24416.1 shall not apply.

20 (3) “Net operating loss” means the loss determined
21 under Section 172 of the Internal Revenue Code, as
22 modified by Section 24416.1, attributable to the taxpayer’s
23 business activities within the Los Angeles Revitalization
24 Zone (as defined in Section 7102 of the Government
25 Code) prior to the Los Angeles Revitalization Zone
26 expiration date. The attributable loss shall be determined
27 in accordance with Chapter 17 (commencing with
28 Section 25101) of Part 11, modified as follows:

29 (A) The loss shall be apportioned to the Los Angeles
30 Revitalization Zone by multiplying the loss from the
31 business by a fraction, the numerator of which is the
32 property factor plus the payroll factor, and the
33 denominator of which is 2.

34 (B) “The Los Angeles Revitalization Zone” shall be
35 substituted for “this state.”

36 (4) A net operating loss carryover shall be a deduction
37 only with respect to the taxpayer’s business income
38 attributable to the Los Angeles Revitalization Zone (as
39 defined in Section 7102 of the Government Code)
40 determined in accordance with subdivision (c).

(5) If a loss carryover is allowable pursuant to this section for any income year after the Los Angeles Revitalization Zone designation has expired, the Los Angeles Revitalization Zone shall be deemed to remain in existence for purposes of computing the limitation set forth in paragraph (2) and allowing a net operating loss deduction.

(6) Attributable income shall be that portion of the taxpayer's California source business income which is apportioned to the Los Angeles Revitalization Zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the Los Angeles Revitalization Zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified as follows:

(A) Business income shall be apportioned to the Los Angeles Revitalization Zone by multiplying total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(B) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the Los Angeles Revitalization Zone during the income year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the income year.

(C) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the Los Angeles Revitalization Zone during the income year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the income year.

(7) "Los Angeles Revitalization Zone expiration date" means the date the Los Angeles Revitalization Zone designation expires, is repealed, or becomes inoperative

1 pursuant to Section 7102, 7103, or 7104 of the Government
2 Code.

3 (b) This section shall be inoperative on the first day of
4 the income year beginning on or after the determination
5 date, and each income year thereafter, with respect to the
6 taxpayer's business activities within a geographic area
7 that is excluded from the map pursuant to Section 7102 of
8 the Government Code, or an excluded area determined
9 pursuant to Section 7104 of the Government Code. The
10 determination date is the earlier of the first effective date
11 of a determination under subdivision (c) of Section 7102
12 of the Government Code occurring after December 1,
13 1994, or the first effective date of an exclusion of an area
14 from the amended Los Angeles Revitalization Zone
15 under Section 7104 of the Government Code. However,
16 if the taxpayer has any unused loss amount as of the date
17 this section becomes inoperative, that unused loss
18 amount may continue to be carried forward as provided
19 in this section.

20 (c) A taxpayer who qualifies as a "qualified taxpayer"
21 under one or more sections shall, for the income year of
22 the net operating loss and any income year to which that
23 net operating loss may be carried, designate on the
24 original return filed for each year the section that applies
25 to that taxpayer with respect to that net operating loss. If
26 the taxpayer is eligible to qualify under more than one
27 section, the designation is to be made after taking into
28 account subdivision (d).

29 (d) If a taxpayer is eligible to qualify under this section
30 and either Section 24416.2, 24416.5, or 24416.6 as a
31 "qualified taxpayer," with respect to a net operating loss
32 in an income year, the taxpayer shall designate which
33 section is to apply to the taxpayer.

34 (e) Notwithstanding Section 24416, the amount of the
35 loss determined under this section or Section 24416.2,
36 24416.5, or 24416.6 shall be the only net operating loss
37 allowed to be carried over from that income year and the
38 designation under subdivision (c) shall be included in the
39 election under Section 24416.1.

1 (f) This section shall cease to be operative on
2 December 1, 1998. However, any unused net operating
3 loss may continue to be carried over to following years as
4 provided in this section.

5 SEC. 19. Section 24416.5 is added to the Revenue and
6 Taxation Code, to read:

7 24416.5. (a) For each income year beginning on or
8 after January 1, 1995, and before January 1, 2003, the term
9 “qualified taxpayer” as used in Section 24416.1 includes a
10 taxpayer engaged in the conduct of a trade or business
11 within a LAMBRA. For purposes of this subdivision, all of
12 the following shall apply:

13 (1) A net operating loss shall not be a net operating loss
14 carryback for any income year and, except as provided in
15 subparagraph (B), a net operating loss for any income
16 year beginning on or after the date the area in which the
17 taxpayer conducts a trade or business is designated a
18 LAMBRA shall be a net operating loss carryover to each
19 following income year that ends before the LAMBRA
20 expiration date or to each of the 15 income years following
21 the income year of loss, if longer.

22 (2) In the case of a financial institution to which
23 Section 585, 586, or 593 of the Internal Revenue Code
24 applies, a net operating loss for any income year
25 beginning on or after January 1, 1984, shall be a net
26 operating loss carryover to each of the five years
27 following the income year of the loss. Subdivision (b) of
28 Section 24416.1 shall not apply.

29 (3) “LAMBRA” means a local agency military base
30 recovery area designated in accordance with Section 7114
31 of the Government Code.

32 (4) “Taxpayer” means a bank or corporation that
33 conducts a trade or business within a LAMBRA and, for
34 the first two income years, has a net increase in jobs
35 (defined as 2,000 paid hours per employee per year) of
36 one or more employees in the LAMBRA and this state.
37 For purposes of this paragraph, all of the following shall
38 apply:

39 (A) The net increase in the number of jobs shall be
40 determined by subtracting the total number of full-time

1 employees (defined as 2,000 paid hours per employee per
2 year) the taxpayer employed in this state in the income
3 year prior to commencing business operations in the
4 LAMBRA from the total number of full-time employees
5 the taxpayer employed in this state during the second
6 income year after commencing business operations in the
7 LAMBRA. For taxpayers who commence doing business
8 in this state with their LAMBRA business operation, the
9 number of employees for the income year prior to
10 commencing business operations in the LAMBRA shall
11 be zero. The deduction shall be allowed only if the
12 taxpayer has a net increase in jobs in the state, and if one
13 or more full-time employees are employed within the
14 LAMBRA.

15 (B) The total number of employees employed in the
16 LAMBRA shall equal the sum of both of the following:

17 (i) The total number of hours worked in the LAMBRA
18 for the taxpayer by employees (not to exceed 2,000 hours
19 per employee) who are paid an hourly wage divided by
20 2,000.

21 (ii) The total number of months worked in the
22 LAMBRA for the taxpayer by employees who are salaried
23 employees divided by 12.

24 (C) In the case of a taxpayer that first commences
25 doing business in the LAMBRA during the income year,
26 for purposes of clauses (i) and (ii), respectively, of
27 subparagraph (B) the divisors “2,000” and “12” shall be
28 multiplied by a fraction, the numerator of which is the
29 number of months of the income year that the taxpayer
30 was doing business in the LAMBRA and the denominator
31 of which is 12.

32 (5) “Net operating loss” means the loss determined
33 under Section 172 of the Internal Revenue Code, as
34 modified by Section 24416.1, attributable to the taxpayer’s
35 business activities within a LAMBRA prior to the
36 LAMBRA expiration date. The attributable loss shall be
37 determined in accordance with Chapter 17
38 (commencing with Section 25101), modified as follows:

39 (A) Loss shall be apportioned to a LAMBRA by
40 multiplying the loss from the business by a fraction, the

1 numerator of which is the property factor plus the payroll
2 factor, and the denominator of which is 2.

3 (B) “The LAMBRA” shall be substituted for “this
4 state.”

5 (6) A net operating loss carryover shall be a deduction
6 only with respect to the taxpayer’s business income
7 attributable to a LAMBRA determined in accordance
8 with Chapter 17 (commencing with Section 25101),
9 modified as follows:

10 (A) Business income shall be apportioned to a
11 LAMBRA by multiplying total business income by a
12 fraction, the numerator of which is the property factor
13 plus the payroll factor, and the denominator of which is
14 2.

15 (B) “The LAMBRA” shall be substituted for “this
16 state.”

17 (C) If a loss carryover is allowable pursuant to this
18 section for any income year after the LAMBRA
19 designation has expired, the LAMBRA shall be deemed
20 to remain in existence for purposes of computing this
21 limitation.

22 (7) “LAMBRA expiration date” means the date the
23 LAMBRA designation expires, is no longer binding, or
24 becomes inoperative pursuant to Section 7110 of the
25 Government Code.

26 (b) A taxpayer who qualifies as a “qualified taxpayer”
27 under one or more sections shall, for the income year of
28 the net operating loss and any income year to which that
29 net operating loss may be carried, designate on the
30 original return filed for each year the section that applies
31 to that taxpayer with respect to that net operating loss. If
32 the taxpayer is eligible to qualify under more than one
33 section, the designation is to be made after taking into
34 account subdivision (c).

35 (c) If a taxpayer is eligible to qualify under this section
36 and either Section 24416.2, 24416.4, or 24416.6 as a
37 “qualified taxpayer,” with respect to a net operating loss
38 in an income year, the taxpayer shall designate which
39 section is to apply to the taxpayer.



(d) Notwithstanding Section 24416, the amount of the loss determined under this section or Section 24416.2, 24416.4, or 24416.6 shall be the only net operating loss allowed to be carried over from that income year and the designation under subdivision (b) shall be included in the election under Section 24416.1.

SEC. 20. Section 24416.6 is added to the Revenue and Taxation Code, to read:

24416.6. (a) For each income year beginning on or after January 1, 1998, the term “qualified taxpayer” as used in Section 24416.1 includes a corporation that meets both of the following:

(1) Is engaged in the conduct of a trade or business within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(2) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition. In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer shall be made at the entity level.

(b) For purposes of subdivision (a), all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any income year and a net operating loss for any income year beginning on or after the date that the area in which the qualified taxpayer conducts a trade or business is designated as a targeted tax area shall be a net operating loss carryover to each of the 15 income years following the income year of loss.

(2) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the qualified taxpayer’s business activities within the targeted tax area (as defined in Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code)

1 prior to the targeted tax area expiration date. That
2 attributable loss shall be determined in accordance with
3 Chapter 17 (commencing with Section 25101), modified
4 for purposes of this section as follows:

5 (A) Loss shall be apportioned to the targeted tax area
6 by multiplying total loss from the business by a fraction,
7 the numerator of which is the property factor plus the
8 payroll factor, and the denominator of which is 2.

9 (B) “The targeted tax area” shall be substituted for
10 “this state.”

11 (3) A net operating loss carryover shall be a deduction
12 only with respect to the qualified taxpayer’s business
13 income attributable to the targeted tax area (as defined
14 in Chapter 12.93 (commencing with Section 7097) of
15 Division 7 of Title 1 of the Government Code)
16 determined in accordance with Chapter 17
17 (commencing with Section 25101), modified for purposes
18 of this section as follows:

19 (A) Business income shall be apportioned to the
20 targeted tax area by multiplying the total business income
21 by a fraction, the numerator of which is the property
22 factor plus the payroll factor, and the denominator of
23 which is 2.

24 (B) “The targeted tax area” shall be substituted for
25 “this state.”

26 (4) If a loss carryover is allowable pursuant to this
27 section for any income year after the targeted tax area
28 expiration date, the targeted tax area designation shall be
29 deemed to remain in existence for purposes of computing
30 the limitation specified in paragraph (2).

31 (5) “Targeted tax area expiration date” means the
32 date the targeted tax area designation expires, is revoked,
33 is no longer binding, or becomes inoperative.

34 (c) A taxpayer who qualifies as a “qualified taxpayer”
35 under one or more sections shall, for the income year of
36 the net operating loss and any income year to which that
37 net operating loss may be carried, designate on the
38 original return filed for each year the section that applies
39 to that taxpayer with respect to that net operating loss. If
40 the taxpayer is eligible to qualify under more than one

1 section, the designation is to be made after taking into
2 account subdivision (e).

3 (d) If a taxpayer is eligible to qualify under this section
4 and either Section 24416.2, 24416.4, or 24416.5 as a
5 “qualified taxpayer,” with respect to a net operating loss
6 in an income year, the taxpayer shall designate which
7 section is to apply to the taxpayer.

8 (e) Notwithstanding Section 24416, the amount of the
9 loss determined under this section or Section 24416.2,
10 24416.4, or 24416.5 shall be the only net operating loss
11 allowed to be carried over from that income year and the
12 designation under subdivision (c) shall be included in the
13 election under Section 24416.1.

14 SEC. 21. The Legislature finds and declares all of the
15 following:

16 (a) (1) Except as otherwise provided in paragraph
17 (2), the amendments made by this act to Sections
18 17052.17, 17053.34, 17053.46, 17053.47, 17053.74, 23622.7,
19 23622.8, 23623.5, 23634, and 23646 of the Revenue and
20 Taxation Code shall be operative for taxable and income
21 years beginning on or after January 1, 1998.

22 (2) The amendments made by this act to paragraph
23 (1) of subdivision (b) of Sections ~~17052.17~~, 17053.34,
24 17053.46, 17053.47, 17053.74, 23622.7, 23622.8, ~~23623.5~~,
25 23634, and 23646 of the Revenue and Taxation Code are
26 consistent with the intent of the acts that enacted those
27 sections, and therefore shall apply from the original
28 effective date of those acts.

29 (b) Sections 17276.4 and 24416.4 of the Revenue and
30 Taxation Code as added by this act shall be operative for
31 taxable and income years ending after December 31,
32 1997.

33 SEC. 22. The Legislature finds and declares that this
34 act fulfills a statewide public purpose by providing for the
35 proper and intended application of statutory incentives
36 for renewed economic development in depressed areas
37 of the state.

38 SEC. 23. This act provides for a tax levy within the
39 meaning of Article IV of the Constitution and shall go into
40 immediate effect. However, unless otherwise specifically

1 provided in Section 21 of this act, its provisions shall apply
2 to taxable and income years beginning on or after January
3 1, 1998.

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